

EXHIBIT “N” (PART 3)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI and)
THOMAS SNYDER,)
Plaintiffs,)
vs.) CV 07 1215
INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER)
JR., individually and in his)
Official capacity; former Mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
And in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALLISON SANCHEZ,)
Individually and in her)
Official capacity,)
Defendants.)
-----)

CONTINUED VIDEOTAPED DEPOSITION OF
GEORGE HESSE
Uniondale, New York
Thursday, August 6, 2009

Reported by:
Philip Rizzuti
JOB NO. 24143

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<p>1</p> <p>2</p> <p>3</p> <p>4 August 6, 2009</p> <p>5 9:07 a.m.</p> <p>6</p> <p>7 Continued videotaped deposition</p> <p>8 of GEORGE HESSE, held at the offices</p> <p>9 of Rivkin Radler, 926 REXCORP Plaza,</p> <p>10 Uniondale, New York, pursuant to</p> <p>11 subpoena, before Philip Rizzuti, a</p> <p>12 Notary Public of the State of New York</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 THOMPSON WIGDOR & GILLY, LLP</p> <p>5 Attorneys for Plaintiffs</p> <p>6 85 Fifth Avenue</p> <p>7 New York, New York 10003</p> <p>8 BY: ANDREW S. GOODSTADT, ESQ.</p> <p>9</p> <p>10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.</p> <p>11 Attorneys for George B. Hesse</p> <p>12 530 Saw Mill Road</p> <p>13 Elmsford, New York 10523</p> <p>14 BY: KEVIN W. CONNOLLY, ESQ.</p> <p>15</p> <p>16 RIVKIN RADLER, LLP</p> <p>17 Attorneys for Incorporated Village of</p> <p>18 Ocean Beach, Joseph Loeffler, Natalie</p> <p>19 Rogers and Ocean Beach Police Department</p> <p>20 926 REXCORP Plaza</p> <p>21 Uniondale, New York 11556</p> <p>22 BY: KENNETH A. NOVIKOFF, ESQ.</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 RUDOLPH M. BAPTISTE, ESQ.</p> <p>5 Assistant County Attorney</p> <p>6 Suffolk County, State of New York</p> <p>7 H. Lee Dennison Building, 6th Floor</p> <p>8 100 Veterans Memorial Highway - P.O. Box 6100</p> <p>9 Hauppauge, New York 11788-0099</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 FRANK FIORILLO</p> <p>13 KEVIN LAMM</p> <p>14 THOMAS SNYDER</p> <p>15 JORDAN MUMMERT, Videographer</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Hesse</p> <p>2 THE VIDEOGRAPHER: This is the</p> <p>3 start of the tape labeled number 1 of the</p> <p>4 continuation of the videotape deposition</p> <p>5 of George Hesse in the matter of Carter 09:07:56</p> <p>6 and Fiorillo versus Incorporated Village</p> <p>7 of Ocean Beach. The date is August 6,</p> <p>8 2009, the time is approximately 9:09 a.m.</p> <p>9 We are on the record.</p> <p>10 G E O R G E H E S S E, called as a 09:08:12</p> <p>11 witness, having been previously duly</p> <p>12 sworn by a Notary Public, was examined</p> <p>13 and testified as follows:</p> <p>14 EXAMINATION BY</p> <p>15 MR. GOODSTADT: 09:08:14</p> <p>16 Q. Good morning, Mr. Hesse.</p> <p>17 A. Good morning.</p> <p>18 Q. Thank you for coming back. I want</p> <p>19 to remind you that you are still under oath</p> <p>20 from last time and that you are still sworn to 09:08:21</p> <p>21 tell the truth. Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. The last time we were here you had</p> <p>24 testified briefly about drinking Rocket Fuels</p> <p>25 in the police station, do you recall that? 09:08:32</p>

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<p>1 Hesse</p> <p>2 A. Uh-hum.</p> <p>3 Q. You testified that there were</p> <p>4 times where people who worked in the bar, I</p> <p>5 believe you identified Brian Easop and Paul 09:08:39</p> <p>6 Conway as having delivered it to the police</p> <p>7 station; is that correct?</p> <p>8 MR. NOVIKOFF: Objection to the</p> <p>9 form.</p> <p>10 A. Yes. 09:08:48</p> <p>11 Q. They worked at CJ's?</p> <p>12 A. Yes.</p> <p>13 Q. Did CJ's have a license to serve</p> <p>14 alcohol outside their premises?</p> <p>15 A. They had a license to sell outside 09:08:57</p> <p>16 of the premise, yes, they had like an all</p> <p>17 premise sale license.</p> <p>18 Q. So they were entitled to sell</p> <p>19 alcohol or deliver alcohol to the police</p> <p>20 station without violating their license? 09:09:09</p> <p>21 MR. NOVIKOFF: Objection to the</p> <p>22 form.</p> <p>23 A. I am not so sure about that, but</p> <p>24 they were able to sell closed containers off</p> <p>25 premises. 09:09:20</p>	<p>1 Hesse</p> <p>2 Q. Well did the Rocket Fuels come in</p> <p>3 a closed container?</p> <p>4 A. They did, yes.</p> <p>5 Q. When you say you are not so sure 09:09:23</p> <p>6 about that, what are you not sure about?</p> <p>7 A. Well, like selling</p> <p>8 over-the-counter, taking an open container</p> <p>9 outside the bar, that is illegal to drink</p> <p>10 outside of the -- in public, that is what I am 09:09:35</p> <p>11 thinking along those lines. But they could</p> <p>12 sell alcohol over-the-counter and by the case,</p> <p>13 by the bottle for off premises consumption.</p> <p>14 Q. How about a mixed drink?</p> <p>15 MR. NOVIKOFF: Objection. 09:09:51</p> <p>16 A. That is alcohol.</p> <p>17 Q. They could sell that off premises?</p> <p>18 A. I believe so.</p> <p>19 Q. What is the basis of your belief?</p> <p>20 A. I believe once I looked up their 09:09:58</p> <p>21 license a while back, I don't recall what year</p> <p>22 or when or why, but they do -- they had at</p> <p>23 that time off premise sale license.</p> <p>24 Q. When did you look up their</p> <p>25 license? 09:10:10</p>
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<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 Q. Do you recall what year it was?</p> <p>4 A. I don't remember.</p> <p>5 Q. Last time -- strike that. 09:10:14</p> <p>6 Just so I am clear you never wrote</p> <p>7 CJ's or Mr. Easop or Mr. Conway a ticket for</p> <p>8 delivering the alcohol, did you?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 MR. CONNOLLY: Objection. 09:10:32</p> <p>11 (Record read.)</p> <p>12 A. No.</p> <p>13 Q. That is correct?</p> <p>14 A. That is correct.</p> <p>15 Q. The last time when we were here we 09:10:46</p> <p>16 were discussing the Halloween incident, do you</p> <p>17 recall that?</p> <p>18 A. Yes.</p> <p>19 Q. I believe that you testified, the</p> <p>20 last thing you testified to was a statement, a 09:11:00</p> <p>21 witness statement you had taken from Doug</p> <p>22 Wyckoff, do you recall that?</p> <p>23 MR. NOVIKOFF: Objection to the</p> <p>24 form.</p> <p>25 A. Yes. 09:11:08</p>	<p>1 Hesse</p> <p>2 Q. Do you recall testifying that that</p> <p>3 was on that next Tuesday morning?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. His testimony is what it is. 09:11:28</p> <p>6 A. Yes, I believe it was the Tuesday</p> <p>7 after the incident.</p> <p>8 Q. What do you recall doing in</p> <p>9 connection with your investigation of the</p> <p>10 Halloween incident after taking that witness 09:11:38</p> <p>11 statement?</p> <p>12 MR. CONNOLLY: The next step?</p> <p>13 MR. GOODSTADT: Yes. I believe he</p> <p>14 walked us through his memory of the next</p> <p>15 step. So I want to know what the next 09:11:49</p> <p>16 step is.</p> <p>17 A. I don't recall exactly what I did,</p> <p>18 but I think I looked for more witnesses.</p> <p>19 Q. How did you go about doing that?</p> <p>20 A. I believe I asked Doug Wyckoff who 09:11:57</p> <p>21 may have been there that he recalls.</p> <p>22 Q. Do you recall who if anybody he</p> <p>23 told you may have been there?</p> <p>24 A. Off the top of my head, no.</p> <p>25 Q. Do you recall what you did after 09:12:10</p>

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1 Hesse
2 asking him that question who may have been
3 there?
4 A. I don't recall.
5 Q. Did there come a point in time 09:12:16
6 where you asked Pat Cherry to assist in the
7 investigation?
8 A. Yes.
9 Q. When was that?
10 A. I don't know exactly. 09:12:30
11 Q. Was it before or after the Tuesday
12 morning in which you spoke with Mr. Wyckoff?
13 A. I don't recall.
14 Q. How did you go about asking him;
15 ask you see him, call him, E-mail him, some 09:12:43
16 other form?
17 A. I believe I called him.
18 Q. Why did you call him?
19 A. Because I thought he was a good
20 candidate to help me out. 09:12:51
21 Q. You made the decision to appoint
22 him to the investigation?
23 A. I believe I called Chief Paradiso
24 and asked him if it would be all right.
25 Q. When did you call Chief Paradiso 09:12:59

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1 Hesse
2 form.
3 A. No.
4 Q. Did the board approve his
5 assistance in the investigation? 09:13:53
6 MR. CONNOLLY: Objection to the
7 form.
8 A. I don't know.
9 Q. Did you speak to anybody on the
10 board prior to asking Mr. Cherry to 09:14:01
11 investigate?
12 A. No.
13 MR. NOVIKOFF: Objection to the
14 form.
15 Q. At that point in time Mr. Cherry 09:14:08
16 had not passed all the civil service tests; is
17 that correct?
18 A. Correct.
19 Q. Did you alert anybody at civil
20 service with respect to Cherry's -- strike 09:14:31
21 that.
22 Did you alert anybody at civil
23 service about your decision to ask Mr. Cherry
24 to assist in the investigation?
25 MR. NOVIKOFF: Objection to the 09:14:42

1 Hesse
2 to ask if it would be all right?
3 A. I don't recall.
4 Q. What was Chief Paradiso's
5 response? 09:13:07
6 A. I think he thought it was a good
7 idea.
8 Q. Do you recall what he said?
9 A. No.
10 Q. Was Pat Cherry scheduled to have a 09:13:13
11 tour on the days or times that he helped with
12 the investigation or did he come in
13 specifically to assist with the investigation?
14 MR. CONNOLLY: Objection.
15 MR. NOVIKOFF: Objection. 09:13:30
16 A. I don't recall.
17 Q. Was he paid for his time taking
18 part in the investigation?
19 A. Yes.
20 Q. Cherry was not on duty Halloween 09:13:35
21 night; is that correct?
22 A. Correct.
23 Q. Did the board have to approve
24 Cherry's involvement in the investigation?
25 MR. CONNOLLY: Objection to the 09:13:48

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1 Hesse
2 form.
3 MR. BAPTISTE: Objection.
4 A. No.
5 Q. By that point in time, that 09:14:47
6 Tuesday morning, had you spoken with anybody
7 on the board of trustees of Ocean Beach about
8 the Halloween incident?
9 A. Not that I recall.
10 Q. Did you speak with the mayor prior 09:14:56
11 to that Tuesday morning about the Halloween
12 incident?
13 MR. NOVIKOFF: Objection to the
14 form.
15 A. No. Not that I recall. 09:15:04
16 Q. Who was the mayor at the time?
17 A. Natalie Rogers.
18 Q. Did you draft a plan for an
19 investigation prior to commencing your
20 investigation? 09:15:16
21 A. No.
22 Q. Did you take any notes in
23 preparation for your investigation?
24 A. No. Not that I recall.
25 Q. Do you recall what day -- strike 09:15:26

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<p>1 Hesse</p> <p>2 that.</p> <p>3 Did Pat Cherry ever come to the</p> <p>4 island in connection with his assistance in</p> <p>5 the investigation? 09:15:38</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall what day or days he</p> <p>8 came to the island to assist in the</p> <p>9 investigation?</p> <p>10 A. I don't recall, no. 09:15:44</p> <p>11 Q. Did you provide any documents to</p> <p>12 Mr. Cherry before he commenced his role in the</p> <p>13 investigation?</p> <p>14 A. I believe he reviewed all the</p> <p>15 documents that we already had. 09:15:55</p> <p>16 Q. What documents were those?</p> <p>17 A. I believe it was, there were at</p> <p>18 least three statements that were taken by the</p> <p>19 officers that were on duty that night. There</p> <p>20 was a field report that was drafted that night 09:16:09</p> <p>21 by Officer Snyder. And I don't know if I had</p> <p>22 any documents that I had drafted up. Any</p> <p>23 statements that I took he may have read one or</p> <p>24 two that maybe that I took at that time. And</p> <p>25 I believe there was the letter from Budd 09:16:25</p>	<p>1 Hesse</p> <p>2 Jaeger, the fax, and some notes that were</p> <p>3 faxed to me by his wife.</p> <p>4 Q. Any other documentation that you</p> <p>5 provided to Mr. Cherry prior to him commencing 09:16:41</p> <p>6 his role in the investigation?</p> <p>7 A. Not that I recall.</p> <p>8 Q. What did you explain to Mr. Cherry</p> <p>9 about the assignment?</p> <p>10 A. I don't recall exactly how I 09:16:53</p> <p>11 explained it to him.</p> <p>12 Q. Do you recall anything that you</p> <p>13 explained to him?</p> <p>14 A. No.</p> <p>15 Q. Were you ever told that one of the 09:17:02</p> <p>16 people who were involved in the altercation</p> <p>17 with Mr. Bosetti had claimed that he was</p> <p>18 afraid there was going to be a cover up, had</p> <p>19 you ever heard that?</p> <p>20 MR. NOVIKOFF: Objection. 09:17:32</p> <p>21 MR. CONNOLLY: At any time?</p> <p>22 Q. At any time?</p> <p>23 A. I don't specifically recall, no.</p> <p>24 Q. And did Cherry take any -- did Pat</p> <p>25 Cherry take any witness statements as part of 09:17:47</p>
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<p>1 Hesse</p> <p>2 his role in the investigation?</p> <p>3 A. Yes.</p> <p>4 Q. How many witness statements did he</p> <p>5 take? 09:17:55</p> <p>6 A. Possibly three.</p> <p>7 Q. Do you know whose witness</p> <p>8 statements Mr. Cherry took?</p> <p>9 A. He did Jeannie Jaeger, the victim.</p> <p>10 He did Sean O'Rourke, and I believe he 09:18:11</p> <p>11 interviewed Elyse Miller over the phone.</p> <p>12 Q. Where did the interview with</p> <p>13 Jeannie Jaeger take place?</p> <p>14 A. At her house in Smithtown.</p> <p>15 Q. Do you know when that interview 09:18:35</p> <p>16 took place?</p> <p>17 A. The statement is dated, so it</p> <p>18 would be on the date that is on the statement</p> <p>19 itself. I don't recall the actual date.</p> <p>20 Q. Did you attend the interview? 09:18:49</p> <p>21 A. Yes, I did.</p> <p>22 Q. Did you ask any questions during</p> <p>23 the interview?</p> <p>24 A. I don't recall if I did.</p> <p>25 Q. Did Mr. Cherry ask any questions 09:18:59</p>	<p>1 Hesse</p> <p>2 during the interview?</p> <p>3 A. Specifically I don't really think</p> <p>4 so.</p> <p>5 Q. Do you recall anything that you 09:19:11</p> <p>6 said during that interview?</p> <p>7 A. No, I don't recall.</p> <p>8 Q. Do you recall anything that</p> <p>9 Mr. Cherry said during that interview?</p> <p>10 A. Yes. In his own words I think he 09:19:18</p> <p>11 asked her to say in her own words what</p> <p>12 happened.</p> <p>13 Q. Did he say anything else during</p> <p>14 that interview?</p> <p>15 A. Not that I recall specifically, 09:19:27</p> <p>16 no.</p> <p>17 Q. So you don't recall if he had</p> <p>18 asked her any questions?</p> <p>19 A. Not specifically, no.</p> <p>20 Q. What was Ed Paradiso's role in the 09:19:39</p> <p>21 investigation?</p> <p>22 A. I don't think he had a role.</p> <p>23 Q. He was not involved at all?</p> <p>24 A. I think in the early, early stages</p> <p>25 his involvement dealt with -- you know, to 09:19:55</p>

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<p>1 Hesse</p> <p>2 tell you the truth I don't know. I mean he --</p> <p>3 I know he spoke to Elyse Miller, he attempted</p> <p>4 to talk to Gary Bosetti and Rich Bosetti.</p> <p>5 Other than that he called me Sunday evening 09:20:13</p> <p>6 and said investigate this.</p> <p>7 Q. What exactly did he say when he --</p> <p>8 what exactly did he say when he called you</p> <p>9 Sunday evening and told you that he wanted you</p> <p>10 to investigate it? 09:20:29</p> <p>11 A. He basically, you know, he told me</p> <p>12 what he was told I guess what had happened</p> <p>13 that night and said that when I come in Monday</p> <p>14 morning he is going to put some documents for</p> <p>15 me to read and try to figure out what 09:20:44</p> <p>16 happened.</p> <p>17 Q. What did he tell you about what</p> <p>18 had happened that night?</p> <p>19 MR. CONNOLLY: Read back the</p> <p>20 question. 09:21:02</p> <p>21 (Record read.)</p> <p>22 MR. CONNOLLY: Objection. But you</p> <p>23 can answer.</p> <p>24 A. He said something about Gary</p> <p>25 Bosetti possibly went crazy in a bar and 09:21:09</p>	<p>1 Hesse</p> <p>2 started hitting people with a pool stick, and</p> <p>3 that he had fired him, and that when I come in</p> <p>4 Monday morning just figure out what happened.</p> <p>5 Q. Did he tell you where he learned 09:21:25</p> <p>6 those facts from?</p> <p>7 MR. NOVIKOFF: Objection to the</p> <p>8 form.</p> <p>9 A. I don't remember specifically if</p> <p>10 he did. 09:21:34</p> <p>11 Q. He told you that he fired Gary</p> <p>12 Bosetti?</p> <p>13 A. He told me he fired Gary Bosetti.</p> <p>14 Q. Did he tell you why he fired Gary</p> <p>15 Bosetti? 09:21:45</p> <p>16 A. I don't recall specifically why.</p> <p>17 Q. Did you have any role in the</p> <p>18 decision to fire Gary Bosetti?</p> <p>19 A. No.</p> <p>20 Q. Did you know about it prior to it 09:21:50</p> <p>21 happening?</p> <p>22 A. No.</p> <p>23 Q. When Mr. Cherry came in as part of</p> <p>24 the investigation did you tell him that Gary</p> <p>25 Bosetti had been fired? 09:22:05</p>
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<p>1 Hesse</p> <p>2 A. I don't recall specifically if I</p> <p>3 told him when he came in.</p> <p>4 Q. How long did the investigation</p> <p>5 take? 09:22:15</p> <p>6 MR. NOVIKOFF: Before they -- take</p> <p>7 before what?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 Q. How long did your investigation</p> <p>10 take? 09:22:25</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 A. Well, to get to the bottom of</p> <p>13 things maybe five days, but from start to</p> <p>14 finish to prosecution, it took a couple of</p> <p>15 months. 09:22:42</p> <p>16 Q. What do you mean by to get to the</p> <p>17 bottom of things?</p> <p>18 A. To kind of figure out what really</p> <p>19 happened.</p> <p>20 Q. So you were able to reach a 09:22:49</p> <p>21 conclusion as to what really happened within</p> <p>22 five days?</p> <p>23 A. I believe it was about five days,</p> <p>24 yes.</p> <p>25 MR. CONNOLLY: Objection. 09:22:56</p>	<p>1 Hesse</p> <p>2 Q. During those five days did you</p> <p>3 speak with Kevin Lamm at all about his</p> <p>4 involvement in the incident, or his</p> <p>5 involvement in investigating that incident? 09:23:12</p> <p>6 MR. NOVIKOFF: Objection to the</p> <p>7 form. Foundation.</p> <p>8 A. Yes.</p> <p>9 Q. When did you speak with Lamm?</p> <p>10 A. Like I stated a few weeks ago, 09:23:20</p> <p>11 when I got the phone call from Ed Paradiso</p> <p>12 that he had fired Gary and that this incident</p> <p>13 had happened, I called Kevin Lamm on his cell</p> <p>14 phone and asked him what happened.</p> <p>15 Q. Did you speak to him at any time 09:23:38</p> <p>16 after that call that you testified to already?</p> <p>17 A. Yes. I believe I spoke to him one</p> <p>18 other time.</p> <p>19 Q. When was that?</p> <p>20 A. I don't know the exact date. 09:23:47</p> <p>21 Q. Was it in person or on the phone?</p> <p>22 A. On the phone I believe.</p> <p>23 Q. Tell me everything that you recall</p> <p>24 that was discussed between you and Mr. Lamm</p> <p>25 during that telephone conference? 09:23:57</p>

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<p>1 Hesse</p> <p>2 A. I don't specifically remember the</p> <p>3 contents of the phone call, but I asked him to</p> <p>4 put a 42 together, a statement regarding what</p> <p>5 he believes took place. 09:24:07</p> <p>6 Q. Do you recall anything else that</p> <p>7 was discussed during that call?</p> <p>8 A. Not specifically, no.</p> <p>9 Q. Do you know whether Cherry ever</p> <p>10 spoke with Lamm as part of his role in the 09:24:17</p> <p>11 investigation?</p> <p>12 A. I don't know.</p> <p>13 Q. How many times did you speak with</p> <p>14 Mr. Fiorillo in connection with the</p> <p>15 investigation? 09:24:29</p> <p>16 A. Over the course of a couple of</p> <p>17 years?</p> <p>18 Q. No, within the five day period</p> <p>19 until you reached the conclusion?</p> <p>20 A. Like I stated with Kevin Lamm, I 09:24:39</p> <p>21 also called Frank that Sunday, that Sunday</p> <p>22 evening, early evening. I asked him basically</p> <p>23 the same thing that I asked Kevin, what had</p> <p>24 happened, what he thought what had happened.</p> <p>25 I don't specifically recall what 09:24:56</p>	<p>1 Hesse</p> <p>2 he said and I asked him to just put a</p> <p>3 statement together, a 42, just to tell me what</p> <p>4 happened.</p> <p>5 Q. Do you recall anything that was 09:25:05</p> <p>6 discussed, any of the details of what was</p> <p>7 discussed?</p> <p>8 A. No, I don't recall the details</p> <p>9 exactly, no.</p> <p>10 Q. Did you speak with Mr. Fiorillo at 09:25:13</p> <p>11 any other time during the five day period in</p> <p>12 which it took you to investigate and reach a</p> <p>13 conclusion?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I believe one other time, yes. 09:25:26</p> <p>16 Q. When was that?</p> <p>17 A. I think I saw him in person at</p> <p>18 the -- at the lighthouse parking lot where we</p> <p>19 make our relief. I believe he handed me a</p> <p>20 handwritten 42. 09:25:37</p> <p>21 Q. Do you recall anything that was</p> <p>22 stated by either you or Mr. Fiorillo during</p> <p>23 that -- during that incident in which you met</p> <p>24 with him at the lighthouse?</p> <p>25 A. I don't recall specifically 09:25:56</p>
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<p>1 Hesse</p> <p>2 anything.</p> <p>3 Q. How about generally, do you recall</p> <p>4 anything generally that was discussed?</p> <p>5 A. No, not really. 09:26:01</p> <p>6 Q. How about Mr. Snyder, how many</p> <p>7 times did you speak with him during the five</p> <p>8 day period in which you investigated and</p> <p>9 reached a conclusion?</p> <p>10 MR. CONNOLLY: Objection. 09:26:12</p> <p>11 A. You know what, I don't think I</p> <p>12 spoke to him at all that I can recall.</p> <p>13 Q. Did you try to speak to him?</p> <p>14 A. I believe I did, but I am not</p> <p>15 sure, I can't speculate. 09:26:23</p> <p>16 Q. So you don't recall any efforts</p> <p>17 that you made to speak to Mr. Snyder?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you know whether Mr. Cherry</p> <p>20 spoke with Mr. Fiorillo at all? 09:26:31</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know whether Mr. Cherry</p> <p>23 spoke with Mr. Snyder at all?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you think it would have been 09:26:37</p>	<p>1 Hesse</p> <p>2 important for him to speak with either Mr.</p> <p>3 Fiorillo, Mr. Lamm or Mr. Snyder in connection</p> <p>4 with his role in the investigation?</p> <p>5 MR. CONNOLLY: Objection. 09:26:50</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. We already had statements that</p> <p>10 were taken by these individuals and I asked 09:26:54</p> <p>11 them already to write me up a 42 what they</p> <p>12 thought happened, so there was no need to</p> <p>13 speak to them further.</p> <p>14 Q. Did you speak to anybody from</p> <p>15 Ocean Beach Rescue who was on duty that night 09:27:07</p> <p>16 of the Halloween incident during your five day</p> <p>17 period of investigating?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you speak with Joe Loeffler 09:27:15</p> <p>21 during that period; when I say Joe Loeffler I</p> <p>22 mean Joe Loeffler Jr.?</p> <p>23 A. I don't recall specifically</p> <p>24 speaking to him.</p> <p>25 Q. Did you speak with any of the 09:27:28</p>

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<p>1 Hesse</p> <p>2 three people who provided a witness statement</p> <p>3 to the on duty officers that night?</p> <p>4 A. At any time?</p> <p>5 Q. During the five day period in 09:27:39</p> <p>6 which you reached a conclusion as to what</p> <p>7 happened?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 A. No.</p> <p>10 Q. Did you try to speak with any of 09:27:44</p> <p>11 the three of them?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I had their statements.</p> <p>15 Q. You didn't have any follow up 09:27:53</p> <p>16 questions from those statements?</p> <p>17 A. No.</p> <p>18 Q. So their statements were complete</p> <p>19 in your mind?</p> <p>20 A. Yes. 09:28:01</p> <p>21 Q. Just so I am clear you didn't deem</p> <p>22 it necessary to speak with the other side, the</p> <p>23 other individuals that were involved in the</p> <p>24 fight?</p> <p>25 MR. NOVIKOFF: Objection. 09:28:14</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. They were already spoken to.</p> <p>4 Q. You didn't think it was necessary</p> <p>5 or important to speak with them yourself? 09:28:20</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. No.</p> <p>9 Q. Do you believe that the on duty</p> <p>10 officers did a sufficient job in taking their 09:28:28</p> <p>11 statements?</p> <p>12 MR. NOVIKOFF: Objection to the</p> <p>13 form.</p> <p>14 A. No.</p> <p>15 Q. Why not? 09:28:34</p> <p>16 A. They were somewhat incoherent.</p> <p>17 They were purely written.</p> <p>18 Q. Did they provide any other</p> <p>19 statements other than the ones that they gave</p> <p>20 to the three on duty officers? 09:28:59</p> <p>21 A. I believe they made some verbal</p> <p>22 comments the next day to Paradiso.</p> <p>23 Q. How did you learn of those verbal</p> <p>24 comments?</p> <p>25 A. I believe when I was called that 09:29:11</p>
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<p>1 Hesse</p> <p>2 night by Ed Paradiso, now thinking about it,</p> <p>3 he did tell me that they came back early that</p> <p>4 Sunday morning to file a complaint I guess</p> <p>5 against Officer Bosetti. 09:29:24</p> <p>6 Q. Do you know whether they actually</p> <p>7 filed a complaint against Officer Bosetti?</p> <p>8 A. I think it was all done verbally.</p> <p>9 Q. What was the basis of that belief?</p> <p>10 A. I was told that by Ed Paradiso. 09:29:37</p> <p>11 Q. Do you recall what Ed Paradiso</p> <p>12 told you that they stated to him that Sunday</p> <p>13 morning?</p> <p>14 A. I believe he told them that he had</p> <p>15 already fired Officer Bosetti and an 09:29:47</p> <p>16 investigation would be conducted.</p> <p>17 Q. Did he tell you anything that they</p> <p>18 stated happened at the Halloween incident?</p> <p>19 A. I don't recall.</p> <p>20 Q. So I believe that you testified 09:29:59</p> <p>21 that you thought that their statements were</p> <p>22 complete, is that correct, is what you</p> <p>23 testified to?</p> <p>24 MR. CONNOLLY: Objection.</p> <p>25 A. Yes. 09:30:08</p>	<p>1 Hesse</p> <p>2 Q. You testified that the statements</p> <p>3 that you read were incoherent and purely</p> <p>4 written; correct?</p> <p>5 A. Yes. 09:30:15</p> <p>6 Q. So how do you reconcile those two?</p> <p>7 A. I don't understand the question.</p> <p>8 Q. What was incoherent about the</p> <p>9 statements?</p> <p>10 A. They just were just belligerent 09:30:21</p> <p>11 lies from an intox person?</p> <p>12 Q. And did you know that as soon as</p> <p>13 you read those statements that they were</p> <p>14 belligerent lies from an intox person?</p> <p>15 A. You could tell just by reading 09:30:38</p> <p>16 them.</p> <p>17 Q. So you didn't think it was</p> <p>18 important for you to further question them</p> <p>19 after you believed what they had given as a</p> <p>20 statement were lies? 09:30:47</p> <p>21 A. No.</p> <p>22 Q. Why not?</p> <p>23 A. Because a victim came forward,</p> <p>24 told me what really had happened. And the</p> <p>25 fact that the statements reflected the fact 09:30:59</p>

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<p>1 Hesse</p> <p>2 that Gary Bosetti identified himself as a</p> <p>3 police officer led me to believe that there</p> <p>4 was no further questions I needed to ask these</p> <p>5 individuals because they already knew what 09:31:12</p> <p>6 they had done.</p> <p>7 Q. What does the fact that Gary</p> <p>8 Bosetti identified himself as a police officer</p> <p>9 lead you to that conclusion?</p> <p>10 A. One of the statements stated that 09:31:21</p> <p>11 Gary Bosetti who identified himself as a</p> <p>12 police officer at least ten times, I think</p> <p>13 that is what the statement says.</p> <p>14 Q. What did that lead you to believe</p> <p>15 that -- why did that lead you to believe that 09:31:34</p> <p>16 you didn't need to speak with them any</p> <p>17 further?</p> <p>18 A. Because flat out they admitted</p> <p>19 what they had done.</p> <p>20 Q. So it is your conclusion that 09:31:46</p> <p>21 their witness statements is an admission as to</p> <p>22 what they had done; is that your testimony?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 A. Yeah. 09:31:55</p>	<p>1 Hesse</p> <p>2 Q. Did you run a background check on</p> <p>3 any of the three of them?</p> <p>4 A. I may have, I don't recall</p> <p>5 specifically. 09:32:07</p> <p>6 Q. Did you run a background check on</p> <p>7 anybody other than for the three of them in</p> <p>8 connection with the investigation of the</p> <p>9 Halloween incident?</p> <p>10 MR. CONNOLLY: Objection. 09:32:15</p> <p>11 A. I don't specifically recall.</p> <p>12 Q. Why would you run a background</p> <p>13 check on the three of them?</p> <p>14 A. Because they were suspects.</p> <p>15 Q. When did they become suspects? 09:32:23</p> <p>16 A. Probably after I had spoken to</p> <p>17 Budd Jaeger and Jeannie Jaeger.</p> <p>18 Q. So they became suspects based on</p> <p>19 the statements of Budd Jaeger and Jeannie</p> <p>20 Jaeger? 09:32:43</p> <p>21 A. Yes.</p> <p>22 Q. Was Gary Bosetti considered a</p> <p>23 suspect in your mind?</p> <p>24 MR. NOVIKOFF: Objection as to</p> <p>25 timeframe. 09:32:51</p>
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<p>1 Hesse</p> <p>2 Q. While you were investigating?</p> <p>3 MR. CONNOLLY: Same objection.</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. In the early stages I was not 09:32:56</p> <p>6 sure. It was possible, yes.</p> <p>7 Q. Did you attempt to speak with him</p> <p>8 during the five days that you were</p> <p>9 investigating?</p> <p>10 A. Speak with who? 09:33:06</p> <p>11 Q. Start with Gary Bosetti, did you</p> <p>12 attempt to speak with Gary Bosetti during the</p> <p>13 five days of your investigation?</p> <p>14 A. No.</p> <p>15 MR. CONNOLLY: Objection. 09:33:15</p> <p>16 Q. Did you attempt to speak with Rich</p> <p>17 Bosetti during the five days of your</p> <p>18 investigation?</p> <p>19 A. No.</p> <p>20 MR. CONNOLLY: Objection. 09:33:23</p> <p>21 Q. Did you speak with either of them</p> <p>22 during those five days?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. No.</p> <p>25 Q. Why didn't you attempt to speak 09:33:29</p>	<p>1 Hesse</p> <p>2 with them?</p> <p>3 A. Because they too in the early</p> <p>4 stages were suspect to possibly some</p> <p>5 wrongdoing. 09:33:38</p> <p>6 Q. Was it your policy not to speak to</p> <p>7 anybody who was suspect of doing wrongdoing?</p> <p>8 A. Well I wanted to find some</p> <p>9 independent witnesses to find out what had</p> <p>10 happened. 09:33:52</p> <p>11 Q. You didn't answer the question.</p> <p>12 The question was whether it was a policy at</p> <p>13 any time not to speak to anybody who was a</p> <p>14 suspect of doing wrongdoing?</p> <p>15 MR. CONNOLLY: Objection. 09:34:01</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I found it not necessary to speak</p> <p>18 to anybody at that time.</p> <p>19 Q. Do you know what the three people</p> <p>20 who gave witness statements that night were 09:34:10</p> <p>21 drinking?</p> <p>22 MR. CONNOLLY: You are talking</p> <p>23 about the three --</p> <p>24 Q. Schalik, Van Koot and Tesori. The</p> <p>25 question was do you know what they were 09:34:29</p>

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<p>1 Hesse 2 drinking? 3 MR. CONNOLLY: Got it? 4 A. I don't specifically recall, no. 5 Q. Do you know how many drinks they 09:34:35 6 had? 7 A. No. 8 Q. What was the basis of your belief 9 that they were intoxicated? 10 A. I was told by the three officers 09:34:43 11 that were there. 12 Q. Which are the three officers told 13 you? 14 A. Fiorillo, Snyder and Lamm. 15 Q. The fact that they were 09:34:51 16 intoxicated, did that have any role in your 17 assessment of their credibility? 18 A. No. 19 Q. Why did you testify before -- you 20 testified before that they were belligerent 09:35:06 21 lies by intox; is that correct? 22 A. Uh-hum. 23 Q. What does the fact that they were 24 intoxicated have to do with anything about the 25 belligerent lies, if anything? 09:35:16</p>	<p>1 Hesse 2 A. Poor judgment maybe. I don't 3 know. 4 Q. Was Jeannie Jaeger drinking that 5 night? 09:35:21 6 A. I don't recall. 7 Q. Do you know whether Cherry asked 8 her that as part of her interview? 9 A. I don't recall. 10 Q. Did you ask her that when you 09:35:28 11 spoke with her? 12 A. I don't believe I did. 13 Q. Do you think that that was a 14 question that should have been asked as part 15 of the investigation? 09:35:40 16 MR. NOVIKOFF: Objection. 17 A. Not specifically, no. 18 Q. Do you think that if she was drunk 19 it could have affected her judgment? 20 A. Being a victim, no. 09:35:49 21 Q. Could it have affected her ability 22 to recall facts? 23 MR. NOVIKOFF: Objection. 24 A. I don't know. 25 Q. You don't think if she is 09:36:00</p>
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<p>1 Hesse 2 intoxicated it may have affected her ability 3 to recall facts? 4 MR. NOVIKOFF: Objection. 5 A. It is speculating. It is 09:36:10 6 possible. 7 Q. Well as a police officer for a 8 long time, in your experience as a police 9 officer do you believe that intoxicated 10 people -- strike that. 09:36:26 11 Do you believe that intoxication 12 can affect a witness' ability to recall facts? 13 MR. CONNOLLY: Objection. 14 MR. NOVIKOFF: Objection. 15 A. I believe so, yes. 09:36:34 16 Q. But yet you still didn't ask her 17 if she was drinking? 18 MR. CONNOLLY: Objection. 19 A. I don't specifically recall. 20 MR. NOVIKOFF: Before you ask the 09:36:46 21 next question, just to make clear on the 22 record, an objection by one party is an 23 objection for all? 24 MR. GOODSTADT: Yes. 25 MR. NOVIKOFF: Right. 09:36:59</p>	<p>1 Hesse 2 Q. Are you aware of the injuries to 3 Brian Van Koot from that night? 4 A. Partially, yes. 5 Q. What do you mean by partially? 09:37:05 6 A. I partially recall. 7 Q. You partially recall now or you 8 were partially aware at the time; I am not 9 sure what you mean by partially? 10 MR. CONNOLLY: Objection. Re-ask 09:37:19 11 the question. 12 Q. At the time during those five days 13 were you aware of the injuries to Brian Van 14 Koot? 15 MR. CONNOLLY: Objection. If you 09:37:32 16 understand the question. 17 A. I know why he went to the 18 hospital, but I don't believe there were any 19 injuries sustained from what I recall. 20 Q. Did you see any pictures of Brian 09:37:41 21 Van Koot from that night? 22 MR. CONNOLLY: At any juncture? 23 Q. At any juncture? 24 A. Yes. 25 Q. When did you see those? 09:37:52</p>

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1 Hesse
2 A. I may have saw them the day I came
3 in. I don't specifically recall.
4 Q. You testified that you don't
5 believe there were any injuries sustained by 09:38:10
6 Mr. Van Koot. What did you mean by that?
7 A. He came in the next morning and I
8 believe he was okay.
9 MR. GOODSTADT: Would you mark
10 this as Hesse Exhibit 17, photocopy of 09:38:28
11 photographs.
12 (Hesse Exhibit 17, photocopy of
13 photographs, marked for
14 identification, as of this date.)
15 Q. I placed in front of Mr. Hesse 09:38:41
16 what has now been marked as Hesse 17,
17 three-page exhibit bearing Bates numbers 3187
18 through 3188, 3189.
19 Mr. Hesse, are these the pictures
20 that you saw the next morning? 09:39:14
21 MR. CONNOLLY: Objection.
22 A. Yes, I have seen these pictures,
23 yes.
24 Q. Did you hear that at that time
25 that Mr. Van Koot had suffered an unaligned 09:39:27

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1 Hesse
2 he had actually suffered those injuries?
3 MR. NOVIKOFF: Objection.
4 Foundation.
5 A. I don't recall. 09:40:30
6 Q. Did you ever speak -- strike that.
7 How did you know that the EMT
8 suspected that?
9 A. I think I read it on the PCR.
10 Q. Did you ever speak with anyone who 09:40:44
11 was on EMT that night about those injuries?
12 A. I don't recall if I did.
13 Q. When was the first time that you
14 spoke with Joe Loeffler Jr. about the
15 Halloween incident? 09:40:57
16 A. I don't recall when.
17 Q. Do you recall how long after those
18 five days it was?
19 A. I don't.
20 Q. Joe Loeffler was part of the EMT 09:41:04
21 that night; is that correct?
22 A. I believe he was, yes.
23 Q. Did you ever hear the fact that he
24 stated that it was an assault second with a
25 dangerous instrument at the police station 09:41:15

1 Hesse
2 trachea, or disaligned trachea as a result of
3 the Halloween incident?
4 MR. NOVIKOFF: Objection to the
5 form. 09:39:44
6 A. Yes, I did hear that he had a
7 either deviated trachea or something, what the
8 EMT suspected, yes.
9 Q. What do you mean by what the EMT
10 suspected? 09:40:00
11 A. If he had a deviated trachea I
12 doubt he would have been out of the hospital
13 within a couple of hours. It was a
14 precautionary measure.
15 Q. So do you know whether he actually 09:40:10
16 suffered that injury?
17 A. I don't believe he did.
18 Q. That was on the basis of your
19 understanding that he was out of the hospital
20 and came to the police station the next 09:40:19
21 morning?
22 MR. NOVIKOFF: Objection to the
23 form.
24 A. Yes.
25 Q. Did you ever check to see whether 09:40:22

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1 Hesse
2 that night?
3 MR. CONNOLLY: Objection.
4 MR. NOVIKOFF: Objection.
5 A. I heard a rumor about that, yes. 09:41:19
6 Q. Who did you hear the rumor from?
7 A. I don't recall.
8 Q. Did you ever speak with
9 Mr. Loeffler about that statement?
10 A. I don't recall. 09:41:26
11 Q. Did you ever speak with any of the
12 on duty officers that night about that
13 statement?
14 MR. NOVIKOFF: Objection.
15 Q. The three on duty officers that 09:41:36
16 were on duty that night --
17 MR. CONNOLLY: The three officers
18 that went to the scene?
19 MR. NOVIKOFF: Objection to the
20 form. 09:41:45
21 Q. Yes.
22 A. I don't recall if I did
23 specifically.
24 Q. Do you recall specifically
25 speaking to anybody about that statement being 09:41:51

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1 Hesse
2 made?
3 MR. NOVIKOFF: Objection to the
4 form.
5 A. Specifically no. 09:41:54
6 Q. Did you review the on duty
7 officers field report from that evening?
8 A. Yes.
9 Q. When did you review that for the
10 first time? 09:42:12
11 A. I believe it was that Monday
12 morning.
13 Q. And what was your reaction to
14 reading that report?
15 A. I don't know if I really had a 09:42:22
16 reaction. I don't really recall what I had
17 thought.
18 Q. Did you read that at the same time
19 that you read the witness statements that had
20 been taken the night of the Halloween 09:42:39
21 incident?
22 A. Yes, I read them as a packet.
23 Q. And the photos that have been
24 marked as Hesse Exhibit 17, they were part of
25 that packet? 09:42:52

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1 Hesse
2 didn't provide a statement that night to the
3 on duty police officers?
4 A. Yes, she felt that because she saw
5 an ambulance in front of the police station, 09:52:21
6 that she felt that they were busy and she
7 didn't want to bother anybody.
8 Q. Do you know where she went after
9 Hauser's that night?
10 A. I don't recall where she went. 09:52:38
11 Q. You never heard that she went to
12 CJ's after Hauser's?
13 A. I don't recall. She might have.
14 Q. Do you have to pass the police
15 station to get from Hauser's to CJ's? 09:52:49
16 A. Yes.
17 Q. Do you have to pass the police
18 station to get from CJ's back from their
19 residence?
20 A. No. 09:52:57
21 Q. How far is CJ's from the police
22 station?
23 A. Maybe 50 steps.
24 Q. 50 steps?
25 A. Maybe. 09:53:03

1 Hesse
2 A. You know I don't recall if they
3 were or not. I do remember seeing them. I
4 don't remember when I first saw them though.
5 Q. Were there any handwritten notes 09:43:01
6 or notes or documents prepared by Ed Paradiso
7 in that packet that you received?
8 A. I don't recall if there was.
9 MR. GOODSTADT: Would you mark
10 this document as Hesse Exhibit 18, 09:43:17
11 incident report.
12 (Hesse Exhibit 18, incident
13 report, marked for identification, as
14 of this date.)
15 MR. GOODSTADT: Off the record for 09:43:40
16 one minute.
17 THE VIDEOGRAPHER: The time is
18 9:45, we are off the record.
19 (Recess taken.)
20 THE VIDEOGRAPHER: The time is 09:51:48
21 9:53, we are on the record.
22 Q. Mr. Hesse, I want to go back to
23 your discussions with Jeannie Jaeger both on
24 the phone and when you went to her house with
25 Mr. Cherry. Did you ever ask her why she 09:52:06

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1 Hesse
2 Q. Did you ask her whether the --
3 strike that.
4 You never spoke to her about
5 whether she was at CJ's that night after 09:53:08
6 Hauser's?
7 MR. CONNOLLY: Objection.
8 A. I don't recall.
9 Q. Did you ask her why she didn't
10 give a statement to the on duty officers at 09:53:16
11 Hauser's?
12 MR. CONNOLLY: Objection.
13 MR. NOVIKOFF: Objection.
14 A. I don't recall.
15 Q. Do you know whether -- strike 09:53:24
16 that.
17 Did she tell you that she didn't
18 want to bother anybody when she saw the
19 ambulance, did she tell you that during the
20 phone call or did she tell you that during the 09:53:35
21 visit to her house?
22 A. I don't recall.
23 Q. Do you know whether it was
24 incorporated into her witness statement?
25 A. I don't recall if it was or not. 09:53:44

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<p>1 Hesse</p> <p>2 Q. Do you think that is an important</p> <p>3 fact that should be incorporated into a</p> <p>4 witness statement?</p> <p>5 MR. NOVIKOFF: Objection. 09:53:55</p> <p>6 A. May have.</p> <p>7 Q. It may have been important to</p> <p>8 incorporate in a witness statement?</p> <p>9 A. May have.</p> <p>10 Q. What do you mean by that? 09:54:02</p> <p>11 A. We just told her to tell us what</p> <p>12 happened. You know, it is funny, I don't</p> <p>13 recall whether or not she told me within those</p> <p>14 first five days or when we took the statement</p> <p>15 or after. I must have seen her a hundred 09:54:18</p> <p>16 times since then, so I don't recall.</p> <p>17 Q. So it is possible that you didn't</p> <p>18 even ask her that during the five days?</p> <p>19 A. I don't recall.</p> <p>20 Q. The witness statements that were 09:54:28</p> <p>21 prepared by, written by you and Mr. Cherry,</p> <p>22 are those considered police property?</p> <p>23 MR. NOVIKOFF: Objection to the</p> <p>24 form.</p> <p>25 A. I would say yes. 09:54:42</p>	<p>1 Hesse</p> <p>2 Q. Would they be confidential?</p> <p>3 A. To a point.</p> <p>4 Q. What do you mean by to a point?</p> <p>5 A. They are not for the general 09:54:49</p> <p>6 public to look at.</p> <p>7 Q. Were they for other officers to</p> <p>8 look at other than for you and Mr. Cherry?</p> <p>9 A. I don't think I would have hid</p> <p>10 them from anybody. 09:55:02</p> <p>11 Q. Did you leave them out for anybody</p> <p>12 to look at?</p> <p>13 A. Not specifically that I recall.</p> <p>14 Q. Did you ever show them to Gary</p> <p>15 Bosetti? 09:55:11</p> <p>16 A. Yes.</p> <p>17 Q. When did you show them to Gary</p> <p>18 Bosetti?</p> <p>19 A. I don't recall when.</p> <p>20 Q. Did you show them before or after 09:55:16</p> <p>21 he provided his statement?</p> <p>22 A. It might have been after.</p> <p>23 Q. You don't recall showing them to</p> <p>24 him before?</p> <p>25 A. No. 09:55:24</p>
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<p>1 Hesse</p> <p>2 Q. Would it have been improper for</p> <p>3 him to review the other witness' statements</p> <p>4 before giving his own witness statement?</p> <p>5 MR. CONNOLLY: Objection. 09:55:33</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. I don't believe so.</p> <p>8 Q. So you think it would have been</p> <p>9 proper for him to review everybody else's</p> <p>10 witness statement prior to his statement being 09:55:39</p> <p>11 taken?</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 A. You know at that point I don't</p> <p>14 think it really would have mattered.</p> <p>15 Q. Why not? 09:55:50</p> <p>16 A. Because we felt that his actions</p> <p>17 were correct.</p> <p>18 Q. So why did you ask him for a</p> <p>19 statement?</p> <p>20 A. Because we actually wanted to see 09:55:57</p> <p>21 what he had to say.</p> <p>22 Q. So again prior to actually seeing</p> <p>23 what he had to say do you think it would have</p> <p>24 been proper to show him all the other eye</p> <p>25 witness statements that had been taken? 09:56:10</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Yeah, I don't recall whether or</p> <p>4 not he did. To tell you the truth I don't</p> <p>5 believe he did until afterwards. 09:56:19</p> <p>6 Q. I am not asking whether he did or</p> <p>7 didn't, I am asking whether it would have been</p> <p>8 proper to have provided him with the other</p> <p>9 witness statements prior to finding out what</p> <p>10 he had to say? 09:56:28</p> <p>11 MR. NOVIKOFF: Note my objection.</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. I don't think it would have been</p> <p>14 proper, but like I said I don't recall whether</p> <p>15 he did or not. I don't think he did. 09:56:40</p> <p>16 Q. Would it have been proper for him</p> <p>17 to just make photocopies of the statements and</p> <p>18 take them home with him?</p> <p>19 A. I don't --</p> <p>20 MR. NOVIKOFF: Objection. 09:56:53</p> <p>21 A. I don't believe he did.</p> <p>22 Q. The question wasn't whether he did</p> <p>23 or didn't. The question was whether it would</p> <p>24 have been proper for him to do so?</p> <p>25 MR. NOVIKOFF: Objection. 09:56:59</p>

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1 Hesse
2 A. If he asked permission I don't
3 think it would have been improper.
4 **Q. How about if he didn't ask**
5 **permission? 09:57:05**
6 A. I think that would be improper.
7 **Q. Would it be grounds for**
8 **termination?**
9 A. Not specifically.
10 **Q. Why not? 09:57:12**
11 A. Why should he be; I don't know.
12 **Q. Did you terminate David Gerbin**
13 **(phonetic) for making photocopies of police**
14 **documents?**
15 A. He did more than that. 09:57:28
16 **Q. Was that one of the reasons that**
17 **you terminated him?**
18 A. Yes.
19 **Q. What were the other reasons that**
20 **you terminated Gerbin? 09:57:35**
21 A. He was in my desk going through my
22 personal documents, not just a file that was
23 left on a desk.
24 **Q. Anything else that Gerbin did that**
25 **you terminated him for? 09:57:46**

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1 Hesse
2 **that she spoke with Ed Paradiso when he came**
3 **up to the house?**
4 A. Yes, where she was staying that
5 night. 09:59:01
6 **Q. Did she tell you which house it**
7 **was?**
8 A. If I recall correctly I think it
9 was Michael Miller's house on Barberry Walk.
10 **Q. Was Gary Bosetti staying there 09:59:11**
11 **that night?**
12 A. I don't recall.
13 **Q. Did you ever ask him?**
14 A. I don't recall if I did or not.
15 **Q. Do you know whether Richard 09:59:18**
16 **Bosetti was staying there that night?**
17 A. I don't recall.
18 **Q. Did you ever ask him?**
19 A. Actually he made a statement that
20 he stayed in the barracks. 09:59:29
21 **Q. Do you know whether he was**
22 **planning to stay at Michael Miller's house**
23 **that evening?**
24 A. I don't know.
25 **Q. Did Ms. Miller provide -- strike 09:59:40**

1 Hesse
2 A. He went through people's personnel
3 files and took copies of that stuff too, I
4 don't find that to be proper.
5 **Q. Anything else that you fired 09:57:54**
6 **Gerbin for?**
7 A. I believe that was it.
8 **Q. And that was -- you saw that on**
9 **the videotape, Gerbin taking the stuff?**
10 A. Yes. 09:58:17
11 **Q. Did you keep a copy of that tape?**
12 A. Yes.
13 **Q. I believe you testified that**
14 **Mr. Paradiso had spoken to Elyse Miller; is**
15 **that correct? 09:58:30**
16 MR. NOVIKOFF: Objection.
17 A. Yes.
18 **Q. How did you learn that he spoke**
19 **with Elyse Miller?**
20 A. I believe he had stated to me that 09:58:43
21 he did and Elyse Miller had said that he came
22 up to the house.
23 **Q. What house is that?**
24 A. I don't specifically remember.
25 **Q. You don't know -- so she told you 09:58:49**

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1 Hesse
2 **that.**
3 **What else did Mr. Paradiso tell**
4 **you if anything about his discussion with**
5 **Ms. Miller? 09:59:49**
6 A. I don't recall.
7 **Q. Do you recall anything he told you**
8 **about his discussion with Ms. Miller other**
9 **than the fact that he spoke with her?**
10 A. No, I don't recall. 09:59:58
11 **Q. When was the first time that you**
12 **spoke with Elyse Miller about Halloween?**
13 A. I don't remember the exact date,
14 but I believe it was over the telephone.
15 **Q. Was it prior to or after your 10:00:10**
16 **discussion on that Monday or on that Tuesday**
17 **with Doug Wyckoff?**
18 A. Well, I know Officer Cherry was
19 present when I spoke to her on the phone
20 because he was listening in. Actually I was 10:00:28
21 listening in to him. So it had to be a couple
22 of days after.
23 **Q. So your discussion with Ms. Miller**
24 **was a couple of days after that Tuesday?**
25 A. A day or two possibly, I don't 10:00:41

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<p>1 Hesse</p> <p>2 know.</p> <p>3 Q. So your recollection it was either</p> <p>4 Wednesday or Thursday?</p> <p>5 A. It is possible, I don't know. 10:00:48</p> <p>6 Q. Did you call her or did she call</p> <p>7 you?</p> <p>8 A. I don't remember.</p> <p>9 Q. Tell me everything that you recall</p> <p>10 that she said about what happened on Halloween 10:01:01</p> <p>11 during that phone call?</p> <p>12 MR. CONNOLLY: That phone call</p> <p>13 being?</p> <p>14 Q. The one that you testified to the</p> <p>15 first time that you spoke with her? 10:01:09</p> <p>16 A. I think we just basically asked</p> <p>17 her what she observed, and she said she was</p> <p>18 waiting on line for the bathroom. She</p> <p>19 remembers being on line for quite a while,</p> <p>20 possibly fifteen minutes or more. She was 10:01:20</p> <p>21 standing behind who she now knows as Jeannie</p> <p>22 Jaeger who was the first one on line. I guess</p> <p>23 they were having a discussion about how long</p> <p>24 they were waiting on line.</p> <p>25 They kept knocking on the door. I 10:01:34</p>	<p>1 Hesse</p> <p>2 remember her saying that then a male and a</p> <p>3 female came out of the bathroom. Next thing</p> <p>4 you know a fight broke out and her and Jeannie</p> <p>5 somehow got themselves into the bathroom to 10:01:51</p> <p>6 stay away from the fight. That is basically</p> <p>7 what I recall. I don't remember specifics.</p> <p>8 Q. And who was -- who was on that</p> <p>9 call?</p> <p>10 A. I believe it was myself and John 10:02:04</p> <p>11 Cherry, Pat Cherry.</p> <p>12 Q. Did you ask -- strike that.</p> <p>13 Do you know whether Ms. Miller was</p> <p>14 drinking that evening?</p> <p>15 A. I don't recall. 10:02:13</p> <p>16 Q. Did you ask her?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you think that would have been</p> <p>19 an important question to ask Ms. Miller?</p> <p>20 MR. NOVIKOFF: Objection. 10:02:22</p> <p>21 A. May have.</p> <p>22 Q. What do you mean by may have?</p> <p>23 A. It just may have. I think it was</p> <p>24 irrelevant, but I don't recall her if we asked</p> <p>25 her or not. 10:02:32</p>
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<p>1 Hesse</p> <p>2 Q. Why would it be irrelevant about</p> <p>3 whether an alleged eyewitness was drinking?</p> <p>4 A. Because what she told us is what</p> <p>5 we believed happened, so. And she was not 10:02:42</p> <p>6 intoxicated when we were asking her those</p> <p>7 questions.</p> <p>8 Q. But if she was intoxicated at the</p> <p>9 time it could have affected her judgment?</p> <p>10 A. It is possible. 10:02:55</p> <p>11 Q. Could it have affected her ability</p> <p>12 to recall facts?</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. It is possible.</p> <p>15 Q. Could it have affected her 10:03:06</p> <p>16 perception?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. Sure.</p> <p>19 Q. Yet you still think it is</p> <p>20 irrelevant? 10:03:15</p> <p>21 A. Yes.</p> <p>22 Q. Did she ever provide a witness</p> <p>23 statement in writing?</p> <p>24 A. Yes.</p> <p>25 Q. Before we get to that, did you 10:03:22</p>	<p>1 Hesse</p> <p>2 take any notes of that phone conversation?</p> <p>3 A. I don't believe we did.</p> <p>4 Q. How come?</p> <p>5 A. I think we just asked her to write 10:03:31</p> <p>6 down her recollection of what happened and</p> <p>7 send it to us.</p> <p>8 Q. But she had already given you a</p> <p>9 verbal recollection; is that correct?</p> <p>10 A. Yes. 10:03:40</p> <p>11 Q. You didn't take any notes of what</p> <p>12 she said verbally?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I specifically didn't. I am</p> <p>15 unaware if John Cherry did, or Patrick Cherry 10:03:47</p> <p>16 he is known as.</p> <p>17 Q. Don't you think it would have been</p> <p>18 important to write down what she said to you</p> <p>19 in case her written statement contradicted it?</p> <p>20 A. No. 10:04:00</p> <p>21 MR. GOODSTADT: Would you mark</p> <p>22 this document as Hesse Exhibit 19,</p> <p>23 handwritten statement dated November 1,</p> <p>24 2004.</p> <p>25 (Hesse Exhibit 19, handwritten 10:04:09</p>

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<p>1 Hesse</p> <p>2 statement dated November 1, 2004,</p> <p>3 marked for identification, as of this</p> <p>4 date.)</p> <p>5 Q. I placed in front of Mr. Hesse 10:04:40</p> <p>6 what has been marked as Hesse Exhibit 19. It</p> <p>7 is a multiple page exhibit bearing Bates</p> <p>8 numbers 3169 through 3175.</p> <p>9 Mr. Hesse, do you recall ever</p> <p>10 reading or seeing the document that has been 10:05:02</p> <p>11 marked as Hesse Exhibit 19?</p> <p>12 A. Yes.</p> <p>13 Q. This is -- what is this document?</p> <p>14 A. This is Elyse Miller's</p> <p>15 recollection of what happened that night. 10:05:16</p> <p>16 Q. Do you see on the first page dated</p> <p>17 November 1, 2004, do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. That was actually Monday; is that</p> <p>20 correct? 10:05:24</p> <p>21 A. Yes.</p> <p>22 Q. Does this refresh your</p> <p>23 recollection as to who when you spoke with</p> <p>24 Ms. Miller?</p> <p>25 A. No. 10:05:30</p>	<p>1 Hesse</p> <p>2 Q. Any reason to believe that it was</p> <p>3 not provided to you on that Monday?</p> <p>4 A. Say that again.</p> <p>5 Q. Any reason to believe that this 10:05:44</p> <p>6 was not provided to you on that Monday?</p> <p>7 A. No.</p> <p>8 Q. Was Pat Cherry assisting you by</p> <p>9 that Monday?</p> <p>10 A. You know, I don't recall if he 10:05:52</p> <p>11 came in Monday, Tuesday or Wednesday.</p> <p>12 Q. How did this statement come into</p> <p>13 the station?</p> <p>14 A. I believe originally it may have</p> <p>15 been faxed first and then we asked her to take 10:06:05</p> <p>16 it to a notary, have it notarized and send us</p> <p>17 the original.</p> <p>18 Q. It came to the fax machine in the</p> <p>19 police station?</p> <p>20 MR. CONNOLLY: Objection. 10:06:24</p> <p>21 A. I believe so.</p> <p>22 Q. Did you -- strike that.</p> <p>23 Did she ever mention to you</p> <p>24 anything about Gary Bosetti using a pool cue</p> <p>25 to strike somebody? 10:06:40</p>
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<p>1 Hesse</p> <p>2 A. I don't recall if she did or not,</p> <p>3 I would have to read this whole thing again.</p> <p>4 Q. I represent to you that there is</p> <p>5 nothing in this statement that mentioned 10:06:49</p> <p>6 anything about a pool cue.</p> <p>7 A. Okay.</p> <p>8 Q. Did you think that that would be</p> <p>9 strange that an eyewitness who allegedly saw</p> <p>10 the whole incident would leave out the fact 10:06:58</p> <p>11 that Gary Bosetti used a pool cue to strike</p> <p>12 somebody?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 MR. NOVIKOFF: Objection.</p> <p>15 A. I never said that she saw the 10:07:04</p> <p>16 whole incident, and we asked her in her best</p> <p>17 recollection to give us a statement on what</p> <p>18 she observed.</p> <p>19 Q. Out of all the witness statements</p> <p>20 that you took do you recall any of the alleged 10:07:19</p> <p>21 eyewitnesses mentioning that Gary Bosetti used</p> <p>22 a pool cue to strike somebody?</p> <p>23 A. You know I don't think anybody</p> <p>24 ever mentioned a pool cue.</p> <p>25 Q. Did you think that that was 10:07:32</p>	<p>1 Hesse</p> <p>2 strange that nobody mentioned a pool cue?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. Yes. 10:07:36</p> <p>6 Q. It is an important fact that was</p> <p>7 omitted by all the eyewitness statements that</p> <p>8 you had taken?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. Everything was done in their 10:07:45</p> <p>11 words, I am not going to put words in their</p> <p>12 mouth.</p> <p>13 Q. Did you weigh -- strike that.</p> <p>14 Did you use the fact that nobody</p> <p>15 mentioned Gary Bosetti using a pool cue as 10:07:55</p> <p>16 part of your credibility analysis?</p> <p>17 A. Credibility of who?</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 Q. Of the eyewitnesses?</p> <p>20 MR. NOVIKOFF: Objection. 10:08:07</p> <p>21 A. Their statements are their</p> <p>22 statements.</p> <p>23 Q. But you had to make a credibility</p> <p>24 assessment as to whose statements were</p> <p>25 accurate and whose were not; is that correct? 10:08:15</p>

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1 Hesse
2 A. Their statements were this
3 statements.
4 Q. Well did you make a credibility
5 assessment as part of your investigation? 10:08:21
6 A. Not that I specifically recall.
7 Q. Well, you already testified that
8 you thought that the three people who were
9 involved with the fight that gave statements
10 that night had blatant lies in their 10:08:37
11 statements; correct?
12 MR. CONNOLLY: Objection.
13 A. That is what I felt.
14 Q. So that was making a credibility
15 determination about the three of them; 10:08:44
16 correct?
17 MR. NOVIKOFF: Objection.
18 A. In your opinion, yes.
19 Q. How about your opinion?
20 A. I thought they were lying. 10:08:52
21 Q. And you didn't believe their
22 statements; right?
23 A. Yes.
24 Q. You did not believe they were
25 credible; is that correct? 10:09:00

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1 Hesse
2 A. We were acquaintances.
3 Q. Was she ever a friend of yours on
4 Face Book?
5 A. Yes, at one time. 10:10:06
6 Q. What do you mean by at one time?
7 A. I deleted her as a friend.
8 Q. How come?
9 A. Because we are not friends.
10 Q. Were you friends during the period 10:10:16
11 that she was a friend on Face Book?
12 A. No.
13 Q. So why did you delete her --
14 strike that.
15 The reason that you deleted her is 10:10:25
16 because you are not friends?
17 A. Correct.
18 Q. So why didn't you delete her --
19 strike that?
20 How long was she a friend of yours 10:10:32
21 on Face Book?
22 A. I barely had been on Face Book for
23 a year. I just didn't find it necessary for
24 her to be a friend of mine on Face Book.
25 Q. Anything else happen between the 10:10:44

1 Hesse
2 MR. CONNOLLY: Objection.
3 A. Correct.
4 Q. So I will go back to the same
5 question. So you did make a credibility 10:09:04
6 assessment as to the three people who gave
7 statements the night of the incident; correct?
8 A. If you say so, yes.
9 Q. I am not asking about what I say,
10 I am asking about you? 10:09:16
11 A. I believe that they were lies.
12 Q. Did you believe that any other
13 witnesses provided any lies in their
14 statements?
15 A. Not that I recall, no. 10:09:32
16 Q. So you view them as credible?
17 A. Yes.
18 Q. So I will go back to the question
19 again. You did make a credibility assessment
20 as part of your investigation; is that 10:09:44
21 correct?
22 MR. NOVIKOFF: Objection.
23 A. At that time I don't recall.
24 Q. And were you friends with Elyse
25 Miller at the time? 10:09:59

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1 Hesse
2 two of you that caused you to delete her as a
3 friend in Face Book?
4 MR. BAPTISTE: This is a surreal
5 line of questioning, but I am not 10:10:54
6 objecting.
7 A. No.
8 Q. Was she a friend of yours on your
9 My Space account?
10 A. You know I don't think so. 10:11:02
11 Q. Was she a friend of yours or an
12 acquaintance or whatever they call it on any
13 other social networking Internet site?
14 A. No.
15 Q. Did you ask her why she didn't 10:11:21
16 give a statement the night of the incident?
17 A. I don't recall.
18 Q. Did she tell you why she didn't
19 give a statement the night of the incident?
20 A. I don't recall. 10:11:30
21 Q. Did you ask her why she didn't go
22 to the police station that evening?
23 A. I don't recall if we did or not.
24 Q. Is it your testimony that you
25 don't know whether Gary Bosetti stayed at the 10:11:42

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1 Hesse
2 same house as Elyse Miller that night?
3 A. I don't know.
4 Q. If he did do you believe that that
5 would factor on her credibility at all? 10:11:53
6 A. No.
7 Q. Were they friends?
8 A. I believe they are friends.
9 Q. Did they have a sexual
10 relationship? 10:12:02
11 MR. NOVIKOFF: Objection.
12 A. I don't know.
13 MR. NOVIKOFF: If you are going to
14 ask him did he personally witness or did
15 Gary tell him, that is fine. 10:12:10
16 Q. Did you ever hear that they had a
17 sexual relationship?
18 A. No.
19 Q. Do you know whether -- well strike
20 that. 10:12:19
21 Did you ever take a witness
22 statement from Ian Levine about that evening?
23 A. Yes.
24 Q. You took his statement?
25 A. I think I did. 10:12:28

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1 Hesse
2 2004.
3 (Hesse Exhibit 20, handwritten
4 statement dated November 2, 2004,
5 marked for identification, as of this 10:13:25
6 date.)
7 Q. I place in front of Mr. Hesse what
8 is marked as Hesse Exhibit 20. It is a
9 two-page exhibit bearing Bates 3176 and 3177.
10 Mr. Hesse, do you recognize the 10:13:58
11 document marked as Hesse Exhibit 20?
12 A. Yes.
13 Q. What is this document?
14 A. This is a statement by Ian Levine
15 that was taken by John Cherry. 10:14:04
16 Q. Does this refresh your
17 recollection as to whether you took his
18 statement?
19 A. Yes.
20 Q. Were you with Mr. Cherry and 10:14:12
21 Mr. Levine at the time that this statement was
22 provided?
23 A. No.
24 Q. So your recollection before about
25 taking a witness statement from Mr. Levine is 10:14:19

1 Hesse
2 Q. Who else was there at the time of
3 the statement?
4 A. I don't recall.
5 Q. What day did you take his 10:12:36
6 statement?
7 A. I don't recall.
8 Q. Do you recall, do you know whether
9 Mr. Levine was drinking that evening?
10 A. I don't know. 10:12:49
11 Q. Did you ask him?
12 A. I don't recall.
13 Q. Is this the same Ian Levine that
14 you had worked for installing cable?
15 A. Yes. 10:12:58
16 Q. You testified I think the first
17 day of your deposition that he paid you in
18 cash; is that correct?
19 A. Correct.
20 Q. That you didn't pay taxes on that 10:13:09
21 money; right?
22 A. Right.
23 MR. GOODSTADT: Would you mark
24 this document as Hesse Exhibit 20,
25 handwritten statement dated November 2, 10:13:24

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1 Hesse
2 incorrect, or did you take a separate
3 statement?
4 A. You are correct, I was mistaken.
5 Q. Did you review this witness 10:14:30
6 statement as part of your investigation?
7 A. Yes, at some point I did read it.
8 Q. And again you don't know if he was
9 drinking that evening?
10 A. I don't know. 10:14:39
11 Q. Did you take a statement of one
12 Mr. Sean O'Rourke as part of your
13 investigation?
14 A. We did, but I did not do it
15 personally. 10:14:57
16 Q. Who took that statement?
17 A. John Cherry, Pat Cherry.
18 Q. Is Mr. O'Rourke -- who is Sean
19 O'Rourke?
20 A. Just a local resident. 10:15:14
21 Q. Does he work anywhere in the
22 village?
23 MR. CONNOLLY: Now?
24 Q. At the time?
25 A. At the time, yes, he did a lot of 10:15:20

1 Hesse
2 different things.
3 **Q. Was he working the night of the**
4 **Halloween incident?**
5 A. I believe he was the doorman. 10:15:26
6 **Q. The doorman of where?**
7 A. Hauser's.
8 **Q. Did you review his witness**
9 **statement as part of your investigation?**
10 A. I believe I did. 10:15:36
11 **Q. Was Mr. O'Rourke arrested for**
12 **cocaine possession?**
13 A. At some point, yes.
14 **Q. Was he prosecuted?**
15 A. Yes, he was. 10:15:45
16 **Q. Was he found guilty?**
17 A. Yes, he was.
18 **Q. Was it just for possession or was**
19 **there any other crimes?**
20 A. It was intent to sell and 10:15:51
21 possession.
22 **Q. Intent to sell was based on the**
23 **quantity or based on the fact that he had some**
24 **paraphernalia for selling or what was the**
25 **basis? 10:16:02**

1 Hesse
2 **Q. Was it before or after the**
3 **Halloween statement that he gave to you?**
4 A. The conviction was possibly before
5 this also. 10:16:58
6 **Q. What was he convicted for?**
7 A. You know, I don't remember the
8 exact plea deal, what he was convicted on. I
9 don't remember exactly.
10 **Q. But it was a drug related 10:17:09**
11 **conviction?**
12 A. Yes.
13 **Q. So at the time he gave you this**
14 **witness statement you knew he had been**
15 **convicted of a drug related crime? 10:17:17**
16 A. Yes.
17 **Q. Did you -- did his statement play**
18 **any role in your conclusion that you reached**
19 **within those five days?**
20 A. Did it play a role; to what 10:17:32
21 extent; I don't recall.
22 **Q. Well did you believe his statement**
23 **to be credible?**
24 A. Sure.
25 **Q. Do you know whether Mr. O'Rourke 10:17:44**

1 Hesse
2 A. It was based on a lot of things.
3 It was based on the packaging, the amount and
4 the paraphernalia.
5 **Q. When was that arrest? 10:16:11**
6 A. Good question. It was in the
7 month of January, I don't know, 2004, 2005.
8 **Q. Was it before or after you took**
9 **his statement?**
10 A. I don't know. You know what, it 10:16:26
11 was definitely before the statement.
12 **Q. So at the time the statement was**
13 **taken you had known that he was a convicted**
14 **drug dealer; is that correct?**
15 A. Yes. 10:16:40
16 **Q. What was he actually convicted**
17 **for?**
18 MR. CONNOLLY: Objection to the
19 extent that we know that he was arrested
20 before. I don't know if it was 10:16:45
21 established that he was convicted.
22 **Q. Do you know when the conviction**
23 **was?**
24 A. I don't remember exactly what the
25 date was. 10:16:53

1 Hesse
2 **was drinking that night?**
3 A. I don't recall.
4 **Q. Did you ask him?**
5 A. I don't recall. 10:17:49
6 **Q. Do you know whether Mr. O'Rourke**
7 **was doing drugs that night?**
8 A. I don't know, I didn't interview
9 him, so I don't know.
10 **Q. Do you know whether Mr. Cherry 10:17:56**
11 **asked him whether he was doing drugs that**
12 **night?**
13 A. I don't know.
14 **Q. Do you know whether Mr. Cherry**
15 **asked him if he was drinking that night? 10:18:02**
16 A. I don't know.
17 **Q. Do you think it would have been**
18 **important to find out whether or not a**
19 **eyewitness was doing drugs on the night of the**
20 **alleged incident? 10:18:10**
21 MR. NOVIKOFF: Objection.
22 A. Sure, I guess we could have asked.
23 **Q. Particularly after he has already**
24 **been convicted of a drug crime?**
25 MR. NOVIKOFF: Objection. 10:18:19

<p style="text-align: right;">Page 560</p> <p>1 Hesse</p> <p>2 A. I didn't interview him.</p> <p>3 Q. I am asking you whether you think</p> <p>4 it was important to ask that question?</p> <p>5 MR. NOVIKOFF: Objection. 10:18:25</p> <p>6 A. It may have been.</p> <p>7 Q. You think it would have been</p> <p>8 important to ask him whether he was drinking</p> <p>9 that night?</p> <p>10 MR. NOVIKOFF: Objection. 10:18:30</p> <p>11 A. It could have been, yes.</p> <p>12 Q. I believe you testified before</p> <p>13 that you got a statement from Gary Bosetti; is</p> <p>14 that correct?</p> <p>15 A. At some point, yes. 10:18:39</p> <p>16 Q. When was that?</p> <p>17 A. I don't remember the exact date.</p> <p>18 Q. Was it before or after you had</p> <p>19 gotten the statement from Sean O'Rourke?</p> <p>20 A. I believe it was after. 10:18:50</p> <p>21 Q. At some point was Gary rehired?</p> <p>22 A. Yes.</p> <p>23 Q. Who rehired him?</p> <p>24 A. Ed Paradiso.</p> <p>25 Q. Do you recall when that took 10:18:59</p>	<p style="text-align: right;">Page 561</p> <p>1 Hesse</p> <p>2 place?</p> <p>3 A. Specifically no.</p> <p>4 Q. Were you there when it happened?</p> <p>5 A. Yes. 10:19:09</p> <p>6 Q. Where was it?</p> <p>7 A. Police station.</p> <p>8 Q. Who was there?</p> <p>9 A. John Cherry was there, but he was</p> <p>10 sitting at the front desk, myself, Gary 10:19:16</p> <p>11 Bosetti, Richie Bosetti and Ed Paradiso was in</p> <p>12 the squad room.</p> <p>13 Q. I believe you testified that you</p> <p>14 got his statement because you wanted to hear</p> <p>15 what he had to say; is that correct? 10:19:34</p> <p>16 A. Yes.</p> <p>17 Q. How come you did -- strike that.</p> <p>18 Do you recall taking it during the</p> <p>19 first five days in which you reached your</p> <p>20 conclusions? 10:19:45</p> <p>21 A. I don't recall whether I did or</p> <p>22 not.</p> <p>23 MR. GOODSTADT: Would you mark</p> <p>24 this document as Hesse Exhibit 21,</p> <p>25 internal correspondence, November 12, 10:20:09</p>
<p style="text-align: right;">Page 562</p> <p>1 Hesse</p> <p>2 2004.</p> <p>3 (Hesse Exhibit 21, internal</p> <p>4 correspondence, November 12, 2004,</p> <p>5 marked for identification, as of this 10:20:10</p> <p>6 date.)</p> <p>7 Q. I placed in front of Mr. Hesse</p> <p>8 what is marked as Exhibit 21, Bates number</p> <p>9 3158. Mr. Hesse, do you recognize this</p> <p>10 document? 10:20:45</p> <p>11 A. Yes.</p> <p>12 Q. What is this document?</p> <p>13 A. Typed statement given by Gary</p> <p>14 Bosetti.</p> <p>15 Q. You see it is dated November 12, 10:20:51</p> <p>16 2004, do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know whether he provided</p> <p>19 a -- strike that.</p> <p>20 How did you receive this 10:21:01</p> <p>21 statement?</p> <p>22 A. I believe he did this in the</p> <p>23 police station. I think we had him come to</p> <p>24 the station house.</p> <p>25 Q. He typed it up in the police 10:21:11</p>	<p style="text-align: right;">Page 563</p> <p>1 Hesse</p> <p>2 station?</p> <p>3 A. I don't recall if I typed it as he</p> <p>4 said it or if he typed it himself.</p> <p>5 Q. But to your recollection there was 10:21:19</p> <p>6 no handwritten version of this from you or him</p> <p>7 or somebody else?</p> <p>8 A. No.</p> <p>9 Q. You see it is dated November 12,</p> <p>10 2004? 10:21:31</p> <p>11 A. Yes.</p> <p>12 Q. That is now just about two weeks</p> <p>13 after the incident?</p> <p>14 A. Yes.</p> <p>15 Q. Why did you wait about two weeks 10:21:36</p> <p>16 to get his statement?</p> <p>17 A. I don't know why.</p> <p>18 Q. Did you ask him why he didn't give</p> <p>19 a statement the night of the incident?</p> <p>20 A. I think he was -- I believe I did 10:21:47</p> <p>21 ask him why he didn't approach one of the</p> <p>22 three officers and, you know, I remember him</p> <p>23 saying that he was dazed from the fight</p> <p>24 itself. That Richie attempted to -- Rich</p> <p>25 Bosetti, his brother, attempted to talk to the 10:22:03</p>

1 Hesse
2 three and none of them wanted to talk to him.
3 **Q. Did you ask him why he didn't come**
4 **to the police station the next day to give a**
5 **statement? 10:22:15**
6 A. Well, in his opinion I think he
7 felt he was being railroaded --
8 MR. CONNOLLY: That is not the
9 question.
10 A. So he didn't want to talk to 10:22:25
11 anybody, he left.
12 **Q. He left. What do you mean by he**
13 **left?**
14 A. I think he left the beach.
15 **Q. As a retired 20 year veteran of 10:22:34**
16 **the New York City Police Department who was**
17 **involved in an altercation, was it appropriate**
18 **that he left the beach without giving a**
19 **statement?**
20 MR. CONNOLLY: Objection. 10:22:48
21 MR. NOVIKOFF: Objection.
22 A. He felt it was, yes.
23 **Q. I am not asking what he felt. I**
24 **am asking you whether you felt that a 20 year**
25 **New York City veteran police officer at the 10:22:55**

1 Hesse
2 A. No.
3 **Q. What was your reaction when you**
4 **heard that he had left the island without**
5 **giving a statement? 10:23:47**
6 A. I don't know if I had a reaction.
7 I don't recall.
8 **Q. Do you know whether he was**
9 **drinking that night?**
10 A. I don't know. 10:23:58
11 **Q. Did you ever ask him?**
12 A. I may have, I don't know.
13 **Q. And he took police action that**
14 **night?**
15 MR. NOVIKOFF: Objection. 10:24:07
16 MR. CONNOLLY: Objection.
17 **Q. Do you believe he took police**
18 **action that night?**
19 A. In my opinion, yes.
20 **Q. Was he the first officer at the 10:24:11**
21 **scene?**
22 MR. NOVIKOFF: Objection.
23 A. He was already there.
24 **Q. So how come he didn't make an**
25 **arrest that night; did you ever ask him? 10:24:23**

1 Hesse
2 **time a current police officer in the Village**
3 **of Ocean Beach, do you think it was**
4 **appropriate for him to leave the island**
5 **without giving a statement? 10:23:08**
6 MR. NOVIKOFF: Objection.
7 A. I felt it was inappropriate, and I
8 felt he should have come to either myself or
9 the chief.
10 **Q. Did you ever write him up for not 10:23:13**
11 **doing?**
12 MR. NOVIKOFF: Objection.
13 A. No.
14 **Q. Did you ever discipline him for**
15 **not doing that? 10:23:20**
16 MR. NOVIKOFF: Objection.
17 A. I did talk to him about it.
18 **Q. When did you speak to him about**
19 **it?**
20 A. I don't remember exactly. 10:23:25
21 **Q. Was it before or after November**
22 **12, 2004?**
23 A. I don't remember exactly, no.
24 **Q. Did you memorialize the fact that**
25 **you spoke to him about that? 10:23:37**

1 Hesse
2 A. I may have asked him, I don't
3 recall specifically.
4 **Q. Do you recall what his response**
5 **was? 10:24:31**
6 A. Not specifically, no.
7 **Q. Did it surprise you that he didn't**
8 **make an arrest after what you now believe to**
9 **be the truth?**
10 MR. NOVIKOFF: Objection. 10:24:45
11 A. Was I surprised; I wouldn't say I
12 was surprised.
13 **Q. Did you ever ask him why he left**
14 **the ocean without giving a statement?**
15 MR. BAPTISTE: Why he left the 10:25:07
16 bar or why he left --
17 **Q. The beach without giving a**
18 **statement?**
19 A. I don't specifically remember.
20 **Q. Did you ever ask him why he left 10:25:13**
21 **the bar without giving a statement?**
22 MR. NOVIKOFF: Objection. Asked
23 and answered.
24 A. I believe he was inside the bar
25 and Rich Bosetti went out to talk to the three 10:25:23

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<p>1 Hesse</p> <p>2 police officers, and they said they will take</p> <p>3 care of it, they will do whatever,</p> <p>4 specifically I don't recall.</p> <p>5 Frank -- I believe it was Frank 10:25:33</p> <p>6 Fiorillo had said to Rich specifically we are</p> <p>7 handling it. So Richie went back into the</p> <p>8 bar. So I don't know why they specifically</p> <p>9 didn't talk to them.</p> <p>10 Q. And by November 12th you had 10:25:44</p> <p>11 already reached a conclusion as to what</p> <p>12 happened; correct?</p> <p>13 A. Yes.</p> <p>14 Q. By that point in time had any</p> <p>15 other witness mentioned to you that Gary 10:25:56</p> <p>16 Bosetti used a pool cue?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection to the</p> <p>19 form.</p> <p>20 A. I don't believe any witness came 10:26:03</p> <p>21 forward and said anything about a pool cue.</p> <p>22 Q. Did you ever take a statement from</p> <p>23 Richard Bosetti?</p> <p>24 A. Yes.</p> <p>25 Q. When did you take that statement? 10:26:14</p>	<p>1 Hesse</p> <p>2 A. I don't specifically remember.</p> <p>3 Q. Was it before or after Gary's?</p> <p>4 A. I don't know.</p> <p>5 Q. Did you ask him to provide a 10:26:23</p> <p>6 statement or did he come forward voluntarily</p> <p>7 to do it?</p> <p>8 A. I believe I asked him to write</p> <p>9 something up.</p> <p>10 Q. When did you ask him that? 10:26:29</p> <p>11 A. I don't specifically remember.</p> <p>12 Q. Do you recall approximately when</p> <p>13 it was?</p> <p>14 A. No. I don't.</p> <p>15 Q. Do you recall what month it was? 10:26:36</p> <p>16 A. It was probably in November.</p> <p>17 Q. Why would you think that?</p> <p>18 A. Well, the incident took place on</p> <p>19 the 31st, preceding month is November.</p> <p>20 MR. GOODSTADT: Would you mark 10:27:00</p> <p>21 this document, internal correspondence,</p> <p>22 December 10, 2004, as Hesse Exhibit 22,</p> <p>23 (Hesse Exhibit 22, internal</p> <p>24 correspondence, December 10, 2004,</p> <p>25 marked for identification, as of this 10:27:02</p>
Page 570	Page 571
<p>1 Hesse</p> <p>2 date.)</p> <p>3 Q. I placed in front of Mr. Hesse</p> <p>4 what has been marked as Hesse Exhibit 22, it</p> <p>5 is a multiple page exhibit bearing Bates 10:27:38</p> <p>6 numbers 3200 through 3204.</p> <p>7 Do you recognize the exhibit that</p> <p>8 has been marked as Hesse Exhibit 22?</p> <p>9 A. Yes.</p> <p>10 Q. What is this? 10:27:54</p> <p>11 A. Statement that I took from Rich</p> <p>12 Bosetti.</p> <p>13 Q. And the last three pages are, is</p> <p>14 that your handwriting?</p> <p>15 A. Yes, that is my handwriting. 10:28:03</p> <p>16 Q. How come Rich Bosetti didn't sign</p> <p>17 the statement, the last three page written</p> <p>18 statement?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you usually have a witness sign 10:28:11</p> <p>21 a statement that they give?</p> <p>22 A. Always, yes.</p> <p>23 Q. Do you know whether he actually</p> <p>24 signed the handwritten statement at any point?</p> <p>25 A. According to this no, I don't 10:28:22</p>	<p>1 Hesse</p> <p>2 recall.</p> <p>3 Q. Who typed the first two pages?</p> <p>4 A. I think I went back and I typed it</p> <p>5 up after I wrote it. 10:28:32</p> <p>6 Q. Why would you type it up?</p> <p>7 A. Just so it was easier to read, no</p> <p>8 other reason.</p> <p>9 Q. You see the date, December 10,</p> <p>10 2004? 10:28:42</p> <p>11 A. Yes.</p> <p>12 Q. Does that now refresh your</p> <p>13 recollection as to when you took Rich</p> <p>14 Bosetti's statement?</p> <p>15 A. Not specifically, no. 10:28:46</p> <p>16 Q. Any reason to believe it was not</p> <p>17 December 10, 2004?</p> <p>18 A. No.</p> <p>19 Q. Why would you wait six weeks to</p> <p>20 take a statement? 10:28:55</p> <p>21 MR. NOVIKOFF: Almost six weeks.</p> <p>22 Q. Approximately six weeks.</p> <p>23 MR. CONNOLLY: Objection to the</p> <p>24 form. You can answer.</p> <p>25 A. I don't specifically recall why. 10:29:03</p>

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1 Hesse
2 Q. Do you think that six week time
3 lapse could affect his ability to recall the
4 events that night?
5 A. It could have. 10:29:14
6 Q. Did you ask him whether he was
7 drinking that night?
8 A. Not specifically, I don't
9 remember.
10 Q. Do you know whether he was 10:29:20
11 drinking that night?
12 A. I don't know.
13 Q. Do you think it would have been
14 important to ask him?
15 MR. CONNOLLY: Objection. 10:29:26
16 A. Sure.
17 Q. Did you ask Rich Bosetti if he
18 tried to get any statements from any
19 eyewitnesses that night?
20 A. I don't recall if I did. 10:29:48
21 Q. Do you know how Rich Bosetti got
22 off the island that next morning?
23 A. I don't recall.
24 Q. Do you know how Gary Bosetti got
25 off the island on the morning of the 31st? 10:30:02

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1 Hesse
2 A. Yes.
3 Q. Did you ask Snyder to provide a
4 42?
5 A. At some point I did. 10:31:01
6 Q. Do you recall when you asked
7 Snyder to provide a 42?
8 A. I don't recall.
9 Q. Is it possible that it was October
10 31st that you asked him to provide a 42? 10:31:09
11 MR. NOVIKOFF: Objection.
12 A. I don't think so.
13 Q. When was the first time that you
14 recall speaking to Snyder about the Halloween
15 incident? 10:31:25
16 A. I don't recall.
17 Q. Do you recall approximately how
18 many days after the event?
19 A. No, I don't.
20 Q. Do you recall when Snyder provided 10:31:25
21 his 42?
22 A. I don't.
23 Q. Do you recall how Snyder provided
24 his 42?
25 A. I think he put it in writing. 10:31:37

1 Hesse
2 A. I don't recall.
3 Q. I believe you testified before
4 about asking the on duty officers that evening
5 to put together 42's; is that correct? 10:30:17
6 MR. CONNOLLY: Objection. Do you
7 mean the officers who were on the scene?
8 Q. Who were on duty that night?
9 MR. CONNOLLY: We have not
10 established there were any other officers 10:30:28
11 on duty. I know you are making reference
12 to the three officers that went to the
13 scene.
14 MR. GOODSTADT: I will rephrase.
15 MR. NOVIKOFF: I believe this 10:30:35
16 witness testified today that he asked
17 Mr. Lamm and Mr. Fiorillo for 42's. I
18 don't believe he made any reference to a
19 42 for Mr. Snyder.
20 Q. So did you ask Mr. Fiorillo to 10:30:48
21 provide a 42?
22 A. Yes.
23 Q. A 42 is what?
24 A. Just a memo.
25 Q. Did you ask Lamm to provide a 42? 10:30:54

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1 Hesse
2 Q. Do you recall how you received it?
3 A. I don't know. I don't know if it
4 was by E-mail or if he faxed it.
5 Q. Do you recall whether -- was it 10:31:47
6 handwritten or typed?
7 A. My best recollection is it was
8 typed.
9 Q. Did you ever receive the 42 from
10 Lamm? 10:31:58
11 A. Yes.
12 Q. Do you recall when that was
13 received?
14 A. I don't recall, no.
15 Q. Did you ever receive a 42 from Mr. 10:32:02
16 Fiorillo?
17 A. Yes.
18 Q. Do you recall how that was
19 received by you?
20 A. Like I stated earlier I believe he 10:32:10
21 handed me a handwritten 42.
22 Q. Why did you ask them for 42's?
23 A. I just wanted to see what their
24 recollection of the night was.
25 Q. I believe you testified that prior 10:32:31

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<p>1 Hesse</p> <p>2 to asking for the 42 you discussed the</p> <p>3 incident with Mr. Fiorillo and Mr. Lamm on the</p> <p>4 telephone; is that correct?</p> <p>5 A. Yes. 10:32:43</p> <p>6 Q. Do you recall whether you spoke</p> <p>7 with Mr. Snyder at all about Halloween before</p> <p>8 getting his 42?</p> <p>9 A. I must have if I asked for his 42.</p> <p>10 I don't specifically -- specifically I don't 10:32:57</p> <p>11 recall.</p> <p>12 Q. Did he tell you that Richard</p> <p>13 Bosetti refused to answer questions that</p> <p>14 evening?</p> <p>15 A. I don't recall. 10:33:06</p> <p>16 Q. Did he tell you that the people</p> <p>17 who came to the station that night, Schalik,</p> <p>18 Tesori or Van Koot claimed that they thought</p> <p>19 the incident was going to be covered up?</p> <p>20 MR. NOVIKOFF: Objection. 10:33:28</p> <p>21 MR. CONNOLLY: Objection as to</p> <p>22 timeframe.</p> <p>23 Q. At any point in time?</p> <p>24 MR. NOVIKOFF: My objection went</p> <p>25 beyond that. 10:33:34</p>	<p>1 Hesse</p> <p>2 A. I don't recall specifically, but</p> <p>3 that came up a couple of times. I don't know</p> <p>4 when specifically though.</p> <p>5 Q. Who brought it up? 10:33:39</p> <p>6 A. I don't remember specifically.</p> <p>7 Q. Do you remember when you learned</p> <p>8 of that allegation?</p> <p>9 A. No, I think it was a rumor that</p> <p>10 was just circulating. 10:33:49</p> <p>11 Q. Did you learn that rumor during</p> <p>12 the five days in which you reached your</p> <p>13 conclusion?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I don't recall. 10:33:57</p> <p>16 MR. GOODSTADT: Would you mark</p> <p>17 this document as Hesse Exhibit 23,</p> <p>18 typewritten document dated 11/5/04 to</p> <p>19 George Hesse.</p> <p>20 (Hesse Exhibit 23, typewritten 10:34:24</p> <p>21 document dated 11/5/04 to George Hesse,</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 Q. I place in front of Mr. Hesse what</p> <p>25 has been marked as Hesse Exhibit 23, a 10:35:01</p>
Page 578	Page 579
<p>1 Hesse</p> <p>2 three-page exhibit bearing Bates numbers</p> <p>3 3196, 3197 and 3198.</p> <p>4 Mr. Hesse, do you recognize the</p> <p>5 document marked as Hesse Exhibit 23? 10:35:13</p> <p>6 A. Yes.</p> <p>7 Q. What is this document?</p> <p>8 A. This is the statement or 42 from</p> <p>9 Thomas Snyder to me.</p> <p>10 Q. Dated 11/5/04? 10:35:26</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall if you actually</p> <p>13 received it on 11/5/04?</p> <p>14 A. The fax is showing it is</p> <p>15 11/6/2004. 10:35:42</p> <p>16 Q. Do you recall if that is the date</p> <p>17 that you received it?</p> <p>18 A. I don't recall, no.</p> <p>19 Q. Does this -- did you speak with</p> <p>20 Snyder before he provided the 42? 10:35:50</p> <p>21 A. I don't recall specifically. I</p> <p>22 believe I did though.</p> <p>23 Q. You had asked him to provide it,</p> <p>24 right?</p> <p>25 A. Yes. I already stated that. 10:36:01</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection. Without</p> <p>3 telling him what to testify to, I would</p> <p>4 presume that he has testified that he</p> <p>5 asked for a 42 of Snyder, that he had to 10:36:08</p> <p>6 have at least had a conversation as to</p> <p>7 that.</p> <p>8 MR. CONNOLLY: I believe he</p> <p>9 actually testified to that.</p> <p>10 MR. GOODSTADT: I believe he also 10:36:16</p> <p>11 testified that he didn't speak to Snyder</p> <p>12 during the five days. I wanted to</p> <p>13 refresh his recollection. I want to get</p> <p>14 a time line.</p> <p>15 Q. Does this refresh your 10:36:24</p> <p>16 recollection as to whether you spoke with Mr.</p> <p>17 Snyder during the five day interval in which</p> <p>18 you reached your conclusions?</p> <p>19 A. No.</p> <p>20 MR. NOVIKOFF: Also let the record 10:36:35</p> <p>21 reflect that I think his testimony wasn't</p> <p>22 five days, I think he believes it was</p> <p>23 around five days.</p> <p>24 Q. Does this refresh your</p> <p>25 recollection -- strike that. 10:36:47</p>

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<p>1 Hesse</p> <p>2 Sitting here now do you recall</p> <p>3 anything that was discussed between you and</p> <p>4 Mr. Snyder other than for asking him to</p> <p>5 provide a 42? 10:36:57</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you recall telling him that Joe</p> <p>8 Loeffler wanted you to turn around the</p> <p>9 investigation?</p> <p>10 A. No. 10:37:05</p> <p>11 Q. Do you recall telling Tom Snyder</p> <p>12 that you were going to wrap up the</p> <p>13 investigation on the day that he faxed in his</p> <p>14 42?</p> <p>15 MR. NOVIKOFF: Objection. 10:37:17</p> <p>16 A. I don't recall.</p> <p>17 Q. What was your reaction when you</p> <p>18 received Mr. Snyder's statement?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 MR. NOVIKOFF: If any. 10:37:34</p> <p>21 Q. If any?</p> <p>22 A. I don't recall having any</p> <p>23 reaction.</p> <p>24 Q. Did you think his statements was</p> <p>25 accurate? 10:37:43</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. I had no reason to believe it was</p> <p>5 not. 10:37:49</p> <p>6 Q. Did you believe that Mr. Snyder</p> <p>7 was not telling the truth in his statement?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. No. 10:37:59</p> <p>11 Q. Did you believe that Mr. Snyder</p> <p>12 was corrupt based on this statement?</p> <p>13 A. No.</p> <p>14 Q. Did you speak to him at all about</p> <p>15 his statement? 10:38:07</p> <p>16 A. I don't specifically recall.</p> <p>17 Q. Do you recall telling Mr. Snyder</p> <p>18 that there were discrepancies between what he</p> <p>19 and Richard Bosetti had stated?</p> <p>20 A. I don't specifically recall. 10:38:16</p> <p>21 Q. So you don't recall one way or the</p> <p>22 other?</p> <p>23 A. No.</p> <p>24 MR. NOVIKOFF: When did Bosetti</p> <p>25 provide this statement; object to that 10:38:34</p>
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<p>1 Hesse</p> <p>2 last question because I think Bosetti</p> <p>3 provided it after this. Foundation</p> <p>4 objection.</p> <p>5 Q. Do you ever recall telling Mr. 10:38:37</p> <p>6 Snyder that there were discrepancies between</p> <p>7 what his statement said and what Mr. Bosetti</p> <p>8 claimed?</p> <p>9 MR. CONNOLLY: At any time?</p> <p>10 Q. Yes. 10:38:47</p> <p>11 A. I specifically don't recall.</p> <p>12 Q. You don't recall one way or the</p> <p>13 other?</p> <p>14 A. No.</p> <p>15 Q. Do you recall speaking to Ed 10:38:51</p> <p>16 Carter about Tommy Snyder's statement?</p> <p>17 A. No.</p> <p>18 Q. You don't recall one way or the</p> <p>19 other?</p> <p>20 A. No. 10:38:59</p> <p>21 Q. You don't recall telling</p> <p>22 Mr. Carter that Tommy Snyder needed to protect</p> <p>23 the Bosetti's rather than the victims?</p> <p>24 A. No.</p> <p>25 Q. You don't recall telling Mr. Frank 10:39:11</p>	<p>1 Hesse</p> <p>2 Fiorillo that Tommy Snyder needed to protect</p> <p>3 the Bosetti's rather than the victims?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. No. 10:39:27</p> <p>6 Q. Isn't it true that you told</p> <p>7 Mr. Carter that Snyder's report made you sick?</p> <p>8 A. No.</p> <p>9 Q. Isn't it true that -- strike that.</p> <p>10 Did Frank Fiorillo -- how did Frank Fiorillo 10:39:39</p> <p>11 provide his statement to you?</p> <p>12 A. For the third time he handed it to</p> <p>13 me.</p> <p>14 Q. Where was that?</p> <p>15 A. It was at the checkpoint at the 10:39:48</p> <p>16 lighthouse.</p> <p>17 Q. Isn't it true that when he handed</p> <p>18 it to you that you told Mr. Fiorillo that</p> <p>19 Tommy Snyder's report made you sick?</p> <p>20 A. No. 10:40:00</p> <p>21 Q. Isn't it true that you told him</p> <p>22 that Tommy Snyder's 42 was a piece of shit?</p> <p>23 A. No.</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 Q. Isn't it true that you told them 10:40:07</p>

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1 Hesse
2 that -- that you told Mr. Carter and Mr.
3 Snyder that you thought that Tommy Snyder had
4 it in for the Bosetti's?
5 MR. CONNOLLY: Objection. Them 10:40:20
6 being Mr. Carter?
7 Q. Yes. That Mr. Hesse told
8 Mr. Carter and Mr. Snyder -- strike that.
9 Isn't it true that you told Mr.
10 Fiorillo and Mr. Carter that Tommy Snyder had 10:40:32
11 it in for the Bosetti's?
12 A. No.
13 Q. Did you believe that Tommy Snyder
14 had it in for the Bosetti's?
15 A. No. 10:40:42
16 Q. Did the Bosetti's and Mr. Snyder
17 get along prior to the Halloween incident?
18 MR. CONNOLLY: Objection.
19 A. I don't think specifically, no,
20 they didn't get along. 10:40:55
21 Q. Had you heard a rumor prior to the
22 Halloween incident that Tommy Snyder is the
23 one who alerted Civil Service the summer
24 before to the fact that there were uncertified
25 officers at Ocean Beach? 10:41:07

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1 Hesse
2 from anyone --
3 MR. CONNOLLY: Different question.
4 MR. BAPTISTE: Objection.
5 A. Ask the question again. 10:42:19
6 Q. Had you ever heard that Tom Snyder
7 spoke to anyone at the District Attorney's
8 office about the Halloween incident?
9 A. I don't think I specifically
10 heard, I think I read it somewhere. 10:42:30
11 Q. Where did you read it?
12 A. In one of their depositions.
13 Q. What did you think of Tommy
14 Snyder's statement?
15 A. Which statement? 10:42:56
16 Q. The 42.
17 A. I don't know if I really thought
18 anything of it other than this is his
19 recollection of what happened that night.
20 Q. Did you think it was a complete 42 10:43:10
21 or a complete statement of what happened that
22 night?
23 MR. NOVIKOFF: Objection.
24 MR. CONNOLLY: Objection.
25 A. In his opinion. 10:43:17

1 Hesse
2 MR. BAPTISTE: Objection.
3 MR. CONNOLLY: Objection.
4 MR. NOVIKOFF: Just read back the
5 question. I want to see if I have a 10:41:20
6 basis to object.
7 (Record read.)
8 MR. NOVIKOFF: Actually that is
9 one of your few good questions, I have no
10 objection. 10:41:47
11 A. No.
12 Q. Do you know whether Tom Snyder
13 ever spoke with anyone at the District
14 Attorney's office about the Halloween
15 incident? 10:41:59
16 MR. CONNOLLY: At any time?
17 Q. At any time?
18 MR. CONNOLLY: Does he know?
19 Q. Do you know whether Tom Snyder
20 ever spoke to anybody at the District 10:42:05
21 Attorney's office about the Halloween
22 incident?
23 MR. CONNOLLY: Does he have
24 personal knowledge?
25 MR. GOODSTADT: Did he ever learn 10:42:13

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1 Hesse
2 Q. How about in your opinion, did you
3 think that was a complete 42?
4 MR. CONNOLLY: His opinion when?
5 Q. His opinion when you read it? 10:43:25
6 A. I think it was complete to the
7 best of Mr. Snyder's knowledge of what
8 happened that night.
9 Q. Did you doubt any of the
10 credibility of any of the statements in the 42 10:43:39
11 that Snyder provided?
12 MR. NOVIKOFF: Objection.
13 MR. CONNOLLY: Again you are
14 talking when he first read it?
15 MR. GOODSTADT: Yes. 10:43:48
16 A. I don't specifically remember.
17 Q. How about sitting here today do
18 you doubt the credibility of any of the
19 statements made in the statement?
20 A. I would have to read it entirely 10:43:59
21 again.
22 MR. CONNOLLY: Objection. You
23 want him to do so?
24 MR. GOODSTADT: Maybe later.
25 Q. I believe you testified that 10:44:12

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1 Hesse
2 Fiorillo handed you a statement, correct, a
3 42?
4 A. From what I recall, yes.
5 Q. Do you recall what date that was? 10:44:21
6 A. No.
7 MR. GOODSTADT: Would you mark
8 this document as Hesse Exhibit 24,
9 internal correspondence, November 7,
10 2004. 10:44:35
11 (Hesse Exhibit 24, internal
12 correspondence, November 7, 2004,
13 marked for identification, as of this
14 date.)
15 THE VIDEOGRAPHER: The time is 10:44:56
16 10:46, we are off the record.
17 (Recess taken.)
18 THE VIDEOGRAPHER: The time is
19 11:08, we are on the record.
20 Q. Mr. Hesse, I placed in front of 11:06:25
21 you what is marked Exhibit 24, a multiple page
22 exhibit bearing Bates 3194 and 3195. Do you
23 recognize the document marked as Hesse Exhibit
24 24?
25 A. Yes. 11:06:38

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1 Hesse
2 protect the Bosetti's?
3 A. Absolutely not.
4 MR. CONNOLLY: Objection.
5 I withdraw the objection. 11:07:36
6 A. Absolutely not.
7 Q. And you don't recall one way or
8 the other whether you actually ever spoke to
9 Mr. Fiorillo about his statement; is that
10 correct? 11:07:49
11 A. Correct.
12 Q. So had you spoken to him, if you
13 had spoken to him you wouldn't recall anything
14 that was stated during that conversation; is
15 that correct? 11:07:56
16 MR. CONNOLLY: Objection.
17 MR. NOVIKOFF: Objection.
18 A. You asked me a specific question
19 of the statement I possibly made, and there is
20 no way I asked him to rewrite this. 11:08:01
21 Q. That wasn't my question now. The
22 question now was had you in fact spoken with
23 him, sitting here today you don't recall
24 anything that was discussed between the two of
25 you? 11:08:13

1 Hesse
2 Q. What is this?
3 A. This is Frank Fiorillo's
4 statement.
5 Q. The handwritten statement on page 11:06:44
6 3195, is that the statement that he handed to
7 you at the checkpoint?
8 A. I believe it is.
9 Q. Who typed up the first page of
10 this exhibit? 11:06:55
11 A. I did.
12 Q. How come?
13 A. Because the piece of paper that he
14 had written it on, it was like crammed on, so
15 I thought to be able to read it a little 11:07:03
16 better I would read it and type it out in case
17 I had to refer to it for anything.
18 Q. Did you ever speak to Mr. Fiorillo
19 about his statement?
20 A. Specifically I don't recall. 11:07:12
21 MR. NOVIKOFF: You mean after --
22 Q. After he gave it to him.
23 MR. NOVIKOFF: Right.
24 Q. Isn't it true that you told him
25 that he needed to file a new statement to 11:07:28

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1 Hesse
2 A. I don't recall specifically when,
3 where, why or what. I remember receiving this
4 and reading it.
5 Q. I am not talking about you 11:08:22
6 receiving this and reading it. I am talking
7 about any conversations you had with Mr.
8 Fiorillo about his statement after you read it
9 and received it?
10 A. Specifically no. 11:08:29
11 Q. Did you ever show Mr. Fiorillo's
12 statement to Mr. Snyder?
13 A. I don't recall if I did.
14 Q. You don't recall one way or the
15 other? 11:08:42
16 A. No.
17 Q. Do you recall telling Mr. Snyder
18 that it was similar to the piece of shit that
19 he had filed?
20 MR. NOVIKOFF: Objection to the 11:08:50
21 form.
22 A. No.
23 MR. NOVIKOFF: Is the question
24 does he recall stating that or did he say
25 that? 11:08:57

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<p>1 Hesse</p> <p>2 Q. The question is do you recall</p> <p>3 stating that?</p> <p>4 A. No.</p> <p>5 MR. NOVIKOFF: Objection to form 11:08:59</p> <p>6 of the question.</p> <p>7 Q. Did you state that to him?</p> <p>8 A. No.</p> <p>9 Q. Do you recall ever speaking with</p> <p>10 Mr. Snyder about Mr. Fiorillo's statement? 11:09:03</p> <p>11 A. I don't recall.</p> <p>12 Q. You don't recall one way or the</p> <p>13 other?</p> <p>14 A. No.</p> <p>15 Q. And sitting here today if that 11:09:11</p> <p>16 conversation actually occurred you don't</p> <p>17 recall any of the details of what was said;</p> <p>18 correct?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 MR. CONNOLLY: Objection. 11:09:18</p> <p>21 A. Specifically no.</p> <p>22 Q. Or generally?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 A. Specifically no.</p> <p>25 Q. Generally you don't recall either; 11:09:21</p>	<p>1 Hesse</p> <p>2 correct?</p> <p>3 A. I don't recall having a</p> <p>4 conversation with Mr. Snyder, no.</p> <p>5 Q. Did you tell Mr. Fiorillo that 11:09:26</p> <p>6 Cherry's investigation actually described what</p> <p>7 happened that night?</p> <p>8 A. Specifically no.</p> <p>9 Q. Did you tell Mr. Snyder that</p> <p>10 Cherry's investigation actually described what 11:09:44</p> <p>11 happened that night?</p> <p>12 A. Specifically no.</p> <p>13 Q. Specifically you don't recall or</p> <p>14 specifically you didn't say that?</p> <p>15 A. I don't specifically remember 11:09:51</p> <p>16 saying it that way.</p> <p>17 Q. Do you recall saying it generally</p> <p>18 in sum and substance that way?</p> <p>19 A. At some point I sat each one of</p> <p>20 them down and had a conversation about the 11:10:04</p> <p>21 investigation, yes.</p> <p>22 Q. When did you have that sit down</p> <p>23 with Mr. Fiorillo?</p> <p>24 A. I believe it was after Mr. Schalik</p> <p>25 and Mr. Van Koot had already been prosecuted. 11:10:13</p>
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<p>1 Hesse</p> <p>2 Q. What was the substance of that</p> <p>3 conversation?</p> <p>4 A. I told him that I thought it was a</p> <p>5 good idea that he reviewed the entire 11:10:23</p> <p>6 investigation package from start to finish to</p> <p>7 show him what had happened.</p> <p>8 Q. And do you recall anything else</p> <p>9 that was stated in that conversation?</p> <p>10 A. Not specifically. 11:10:37</p> <p>11 Q. How about generally?</p> <p>12 A. I believe Mr. Fiorillo sat down</p> <p>13 and actually enjoyed reading the entire</p> <p>14 arrest.</p> <p>15 Q. What made you believe that? 11:10:48</p> <p>16 A. He sat there and he read the whole</p> <p>17 thing and he was shaking his head, yes, yes,</p> <p>18 yes, yes, and finished it and said that it was</p> <p>19 good.</p> <p>20 Q. Where was that conversation? 11:11:00</p> <p>21 A. In the police station.</p> <p>22 Q. When?</p> <p>23 A. I don't remember the date.</p> <p>24 Q. Who else was there?</p> <p>25 A. I think Mr. Cherry was there. 11:11:07</p>	<p>1 Hesse</p> <p>2 Q. Do you recall how long after the</p> <p>3 plea was done in connection with Mr. Schalik</p> <p>4 or Mr. Van Koot's arrest?</p> <p>5 A. It might have been the following 11:11:23</p> <p>6 summer or season.</p> <p>7 Q. So you think it was the summer of</p> <p>8 '05?</p> <p>9 A. Possible, yes.</p> <p>10 Q. Did you have a sit down with 11:11:32</p> <p>11 Mr. Lamm?</p> <p>12 A. Yes.</p> <p>13 Q. When did you have that sit down?</p> <p>14 A. Probably around the same time.</p> <p>15 Q. What was the sum and substance of 11:11:39</p> <p>16 that conversation you had with Mr. Lamm?</p> <p>17 A. He chose not to read it.</p> <p>18 Q. Do you recall what you said to him</p> <p>19 in sum and substance?</p> <p>20 A. I told him this is what the 11:11:46</p> <p>21 investigation produced, that he should read</p> <p>22 it.</p> <p>23 Q. Anything else that you recall in</p> <p>24 that conversation?</p> <p>25 A. Not specifically. 11:11:54</p>

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1 Hesse
2 **Q. How about generally?**
3 A. No. He just seemed very angry.
4 **Q. What do you mean by that?**
5 A. He just seemed like it was a joke. 11:12:00
6 **Q. What did he do that led you to**
7 **believe that he was angry?**
8 A. He took it and he looked at it
9 briefly and he said I am not reading that.
10 **Q. Did you respond to him when he 11:12:13**
11 **said that?**
12 A. Specifically I don't remember what
13 I said.
14 **Q. How about generally?**
15 A. Even generally I don't remember 11:12:20
16 anything else.
17 **Q. What made you believe or led you**
18 **to believe that he thought it was a joke?**
19 A. That is exactly what he said.
20 **Q. He said it is a joke? 11:12:28**
21 A. Yes, he said it is a joke.
22 **Q. What did you understand him to**
23 **mean when he said this was a joke?**
24 MR. CONNOLLY: Objection.
25 A. I specifically remember him saying 11:12:42

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1 Hesse
2 **Q. How about Mr. Snyder, did you ever**
3 **have a sit down with Mr. Snyder?**
4 A. At some point I did, yes.
5 **Q. When was that? 11:13:29**
6 A. I don't remember the specific
7 date.
8 **Q. When was the sit down with Lamm?**
9 A. It was around the same time I did
10 with Mr. Fiorillo. I think it was early in 11:13:37
11 the season of 2005.
12 **Q. Now, when was the sit down with**
13 **Mr. Snyder?**
14 A. It was later, much later. I don't
15 remember the date specifically. But I thought 11:13:53
16 it would be a good idea that he come in with
17 both Bosetti brothers and have a sit down and
18 try to hash out some of this.
19 **Q. Was that after Mr. Snyder was let**
20 **go? 11:14:20**
21 A. I think it was just before.
22 **Q. Just before he was let go?**
23 A. Yes.
24 MR. NOVIKOFF: When you say let
25 go, we have the same agreement -- 11:14:38

1 Hesse
2 that we are going to sweep this one under the
3 rug too.
4 **Q. When did he say that?**
5 A. During this little conversation 11:12:51
6 that we had when I asked him to read through
7 the investigative pack.
8 **Q. Do you know what he meant by that**
9 **when he said we are going to sweep this one**
10 **under the rug too? 11:12:49**
11 A. I think he felt that there was a
12 cover up.
13 **Q. So he was claiming that there was**
14 **a cover up at that time?**
15 MR. CONNOLLY: Objection. 11:13:08
16 A. There were rumors that that is --
17 that he especially suspected.
18 **Q. I am not talking about rumors, I**
19 **am talking about what he said to you right**
20 **now? 11:13:15**
21 A. Well he said that we were going to
22 sweep this under the rug.
23 **Q. That led you to believe that he**
24 **was claiming that it was being covered up?**
25 A. Yes. 11:13:22

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1 Hesse
2 MR. GOODSTADT: We have the same
3 agreement. Hopefully we will have time
4 to go through when Mr. Hesse said --
5 MR. NOVIKOFF: Yes. 11:14:53
6 MR. GOODSTADT: Would you mark
7 this document as Hesse Exhibit 25, Ocean
8 Beach Police Department, document dated
9 11/5/2004.
10 (Hesse Exhibit 25, Ocean Beach 11:15:02
11 Police Department, document dated
12 11/5/2004, marked for identification,
13 as of this date.)
14 **Q. Do you recall when you received**
15 **Mr. Lamm's 42? 11:15:41**
16 A. I don't.
17 **Q. Why did you ask him to put this on**
18 **a 42?**
19 A. I just wanted him to write it down
20 and just give me an idea of what they thought 11:15:48
21 happened.
22 **Q. Is it standard to have a report of**
23 **an investigation done on a 42?**
24 A. They could have wrote it on a 42,
25 they could have wrote it on a blank piece of 11:16:04

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<p>1 Hesse</p> <p>2 paper. I just wanted to know what they</p> <p>3 thought happened.</p> <p>4 Q. Do you recall when you received</p> <p>5 Mr. Lamm's statement? 11:16:11</p> <p>6 A. I don't.</p> <p>7 Q. Was it before or after you</p> <p>8 received Fiorillo's?</p> <p>9 A. I don't recall.</p> <p>10 Q. How about was it before or after 11:16:15</p> <p>11 you received Snyder's?</p> <p>12 A. I don't recall.</p> <p>13 Q. Do you recall how you received it?</p> <p>14 A. It might have been through E-mail</p> <p>15 or fax, I am not sure. 11:16:23</p> <p>16 Q. I place in front of Mr. Hesse what</p> <p>17 was marked as Hesse Exhibit 25, it is a</p> <p>18 two-page exhibit bearing Bates 3192 and 3193.</p> <p>19 Do you recognize the document</p> <p>20 marked as Hesse Exhibit 25? 11:16:39</p> <p>21 A. Yes.</p> <p>22 Q. What is this?</p> <p>23 A. This is Mr. Lamm's statement.</p> <p>24 Q. It came in by E-mail?</p> <p>25 A. Yes. 11:16:52</p>	<p>1 Hesse</p> <p>2 Q. That beach cop 03, that is your</p> <p>3 E-mail address?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall it coming in around 11:16:56</p> <p>6 November 5, 2004?</p> <p>7 A. I guess that is the date that I</p> <p>8 received it, or he sent it, I am not sure.</p> <p>9 Q. What was your reaction when you</p> <p>10 read Mr. Lamm's statement, if any? 11:17:09</p> <p>11 A. I don't remember having a</p> <p>12 reaction.</p> <p>13 Q. Did you ever speak with Mr. Lamm</p> <p>14 about his statement after you received it?</p> <p>15 A. I don't specifically remember. 11:17:18</p> <p>16 Q. You don't recall one way or the</p> <p>17 other?</p> <p>18 A. No.</p> <p>19 Q. So if you had that conversation</p> <p>20 with him, sitting here today you don't recall 11:17:26</p> <p>21 anything that was stated?</p> <p>22 A. Not specifically about his</p> <p>23 statement, no.</p> <p>24 Q. How about generally?</p> <p>25 A. I don't know. 11:17:32</p>
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<p>1 Hesse</p> <p>2 Q. What did you think of Mr. Lamm's</p> <p>3 statement when you received it?</p> <p>4 MR. CONNOLLY: In what regard?</p> <p>5 Q. In any regard? 11:17:51</p> <p>6 A. Repeat that.</p> <p>7 Q. What did you think of his</p> <p>8 statement when you received it?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. I took it for what it was worth. 11:17:58</p> <p>11 I read it and added it to the pile of papers</p> <p>12 that was part of the investigation.</p> <p>13 Q. What do you mean for what it was</p> <p>14 worth?</p> <p>15 A. This is what his account was of 11:18:10</p> <p>16 what happened that night.</p> <p>17 Q. Did you think it was worth</p> <p>18 anything?</p> <p>19 A. I don't recall. I would have to</p> <p>20 read it again. 11:18:16</p> <p>21 Q. Sitting here today you don't</p> <p>22 recall whether at that time you thought it was</p> <p>23 worth anything?</p> <p>24 A. I specifically don't remember.</p> <p>25 Q. I believe you testified that at 11:18:23</p>	<p>1 Hesse</p> <p>2 some point around five days of investigating</p> <p>3 you reached a conclusion as to what happened;</p> <p>4 is that correct?</p> <p>5 MR. CONNOLLY: Objection. 11:18:32</p> <p>6 A. I had an idea of what was going</p> <p>7 on.</p> <p>8 Q. Did you prepare any report?</p> <p>9 A. At some point I think I did</p> <p>10 another field report. 11:18:42</p> <p>11 Q. When did you do that?</p> <p>12 A. I don't specifically remember the</p> <p>13 date.</p> <p>14 Q. Was it after you reached your</p> <p>15 conclusion? 11:18:54</p> <p>16 A. I don't recall.</p> <p>17 Q. Why would you do another field</p> <p>18 report?</p> <p>19 A. Just to add to the investigation.</p> <p>20 Q. Just so we are clear, the 11:19:01</p> <p>21 additional field report that you did is</p> <p>22 something different than what has been marked</p> <p>23 as -- what number was the field report?</p> <p>24 A. The original one?</p> <p>25 Q. Yes, the one that we marked today. 11:19:19</p>

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1 Hesse
2 A. It was number 18.
3 Q. Just so it is clear for the
4 record, you did a field report that was
5 different than the one that has been marked as 11:19:35
6 Hesse Exhibit 18?
7 A. Yes, it was a separate field
8 report.
9 Q. Do you know where that field
10 report is kept? 11:19:53
11 A. What do you mean where it is kept?
12 Q. Where it is stored?
13 A. It is stored as an electronic
14 document in the computer.
15 MR. GOODSTADT: Would you mark as 11:20:14
16 Hesse Exhibit 26, incident report,
17 12/11/2004.
18 (Hesse Exhibit 26, incident
19 report, 12/11/2004, marked for
20 identification, as of this date.) 11:20:46
21 Q. I placed in front of Mr. Hesse
22 what is marked as Hesse Exhibit 26, one-page
23 exhibit bearing Bates 3150. Mr. Hesse, is
24 this the field report that you are referring
25 to? 11:20:58

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1 Hesse
2 you are referring to Hesse Exhibit 26 and not
3 some other document?
4 A. That is correct.
5 Q. Now, other than for the witness 11:21:57
6 statements, the 42's that we went over, the
7 photos, the statements that were taken that
8 night from Schalik, to Tesori and Van Koot,
9 was there anything else that was placed into
10 the Halloween file? 11:22:17
11 MR. CONNOLLY: Objection.
12 A. Not that I specifically know.
13 Q. Isn't it true that you told Lamm
14 that what was in his statement wasn't what
15 happened? 11:22:40
16 MR. CONNOLLY: Objection.
17 A. I don't recall that.
18 Q. Isn't it true that you asked
19 Mr. Lamm to amend his statement?
20 A. No. 11:22:49
21 Q. It is not true or you don't
22 recall?
23 A. It is not true.
24 Q. There came a point in time where
25 you -- strike that. 11:23:05

1 Hesse
2 A. Yes.
3 Q. So other than for the -- well,
4 strike that.
5 This field report doesn't reflect 11:21:04
6 the conclusions of your investigation, does
7 it?
8 A. You mean our findings?
9 Q. Yes.
10 A. No. 11:21:17
11 Q. So when I ask you if you prepared
12 a report, I was referring to -- maybe you
13 misunderstood or I didn't ask the question
14 clearly. Did you prepare a report that set
15 forth your findings or your conclusions? 11:21:29
16 A. No.
17 Q. How come?
18 A. I don't specifically know why we
19 had to do that.
20 Q. I am asking why you didn't? 11:21:39
21 MR. CONNOLLY: Objection.
22 A. I don't think it was what we
23 normally did.
24 Q. Again just so I am clear for the
25 record, when you said another field report, 11:21:52

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1 Hesse
2 There came a point in time where
3 the five plaintiffs in this matter were
4 terminated from Ocean Beach; is that correct?
5 A. Yes. 11:23:16
6 Q. When was that?
7 A. I believe they -- April 2nd for
8 four of them and it was later for Mr. Snyder.
9 Q. Do you recall when Mr. Snyder was
10 terminated? 11:23:31
11 A. Specifically I don't know the
12 date, no.
13 Q. Do you recall how many -- was it
14 weeks, days, months after April 2nd that Mr.
15 Snyder was terminated? 11:23:42
16 A. It may have been a couple of
17 weeks, I am not specifically sure.
18 Q. Who made the decision to terminate
19 their employment?
20 A. I did. 11:23:55
21 Q. Did you consult with anybody in
22 making that decision?
23 A. I don't think so.
24 Q. When did you make the decision to
25 terminate their employment? 11:24:04

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1 Hesse
2 A. Sometime in I guess January of
3 '06.
4 **Q. When did you first alert somebody**
5 **about the decision to terminate their 11:24:22**
6 **employment that you made in January of '06?**
7 A. I believe what I did is, I didn't
8 know how to go about it, so I called Civil
9 Service and I asked them for a little
10 direction. 11:24:37
11 **Q. Who in Civil Service did you call?**
12 A. I believe it was Allison Chester
13 at the time.
14 **Q. And she was the person in Civil**
15 **Service assigned to the Ocean Beach account? 11:24:54**
16 A. Yes.
17 **Q. You dealt with her in the past on**
18 **Civil Service issues?**
19 A. In the past, yes.
20 **Q. When was that call? 11:25:00**
21 A. I don't specifically know the
22 date.
23 **Q. Do you recall what month it was?**
24 A. It could have been January,
25 February, even March, I am not positive. 11:25:12

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1 Hesse
2 A. I don't know.
3 **Q. What did she tell you when she got**
4 **back to you?**
5 A. She told me that all part-time 11:26:06
6 seasonal officers are at will employees, and
7 that you could terminate or not rehire or just
8 not ask them back for any reason without
9 cause.
10 **Q. Did she tell you that there are 11:26:23**
11 **any reasons that couldn't form the basis of**
12 **the decision to terminate their employment?**
13 A. No.
14 **Q. Just so I am clear at that point**
15 **in time what was your title? 11:26:43**
16 A. At that time I was the -- I was
17 appointed Acting Deputy Chief.
18 MR. CONNOLLY: We are talking
19 about when you are saying at that point
20 in -- 11:26:53
21 MR. GOODSTADT: When he had this
22 conversation.
23 MR. CONNOLLY: Yes.
24 **Q. Just so I am clear for the record**
25 **at no point were you the mayor of Ocean Beach; 11:26:59**

1 Hesse
2 **Q. Is there anything that you can**
3 **think of that would refresh your recollection?**
4 A. No.
5 **Q. Did you take any notes of the 11:25:20**
6 **call?**
7 A. No.
8 **Q. Did you put it on any calendar or**
9 **diary?**
10 A. No. 11:25:25
11 **Q. Tell me what you recall about that**
12 **call?**
13 A. I believe I stated it on the first
14 day of testimony that I called her. I asked
15 her what their rights were as seasonal police 11:25:35
16 officers. I asked her what the Village's
17 rights were and what my rights would be.
18 **Q. What did she respond?**
19 A. She said that she would have to
20 speak to her supervisor and find out some 11:25:50
21 details and that she would get back to me.
22 **Q. Did she ever get back to you?**
23 A. Yes.
24 **Q. Do you recall who the supervisor**
25 **was that she had to get in touch with? 11:25:59**

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1 Hesse
2 **correct?**
3 A. No.
4 **Q. At no point were you the acting**
5 **mayor? 11:27:03**
6 MR. NOVIKOFF: We can stipulate to
7 that.
8 A. No.
9 MR. GOODSTADT: We have some
10 testimony from Civil Service as to who 11:27:10
11 can make these decisions.
12 MR. NOVIKOFF: But we can
13 stipulate that he was never the mayor,
14 acting mayor, trustee, acting trustee
15 member or clerk. 11:27:18
16 **Q. Were you ever the clerk of the**
17 **Village of Ocean Beach?**
18 A. No.
19 **Q. Acting clerk of the Village of**
20 **Ocean Beach? 11:27:24**
21 A. No.
22 **Q. Do you recall anything else in**
23 **that conversation that you had with**
24 **Ms. Chester, the second conversation?**
25 A. No. 11:27:33

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1 Hesse
2 **Q. When was the first time that you**
3 **alerted anybody who was either an employee of**
4 **the Village of Ocean Beach or a member of the**
5 **Board of Trustees of Ocean Beach about your 11:27:46**
6 **decision to terminate the five plaintiffs?**
7 A. I believe I wrote a memo to the
8 Village Clerk and to I think I cc'd it to the
9 mayor and Trustee Loeffler.
10 **Q. Do you recall when that was? 11:28:03**
11 A. The specific date that I wrote it,
12 April 4th, somewhere in there.
13 **Q. It was after you had already**
14 **notified four of the five plaintiffs that they**
15 **were terminated? 11:28:16**
16 A. Yes.
17 MR. GOODSTADT: Would you mark
18 this document as Hesse Exhibit 27, letter
19 dated March 11, 2006.
20 (Hesse Exhibit 27, letter dated 11:28:20
21 March 11, 2006, marked for
22 identification, as of this date.)
23 **Q. I place in front of Mr. Hesse what**
24 **has been marked as Hesse Exhibit 27, a**
25 **one-page exhibit bearing Bates 2662. 11:28:55**

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1 Hesse
2 sent to all members of the department.
3 **Q. So you didn't mean that new ID**
4 **would be issued to all of the people who were**
5 **invited to the meeting; is that correct? 11:29:54**
6 A. Yes. You are correct.
7 **Q. Did you speak with any other --**
8 **strike that.**
9 **Did you alert any other police**
10 **officers at Ocean Beach that the plaintiffs 11:30:07**
11 **were going to be terminated prior to April 2,**
12 **2006?**
13 A. Yes.
14 **Q. Who did you speak with?**
15 A. Only one, Paul Trosko, who was my 11:30:14
16 full-time police officer.
17 **Q. What did you tell Paul Trosko?**
18 A. I told him what I was going to do.
19 **Q. Did you tell him why you were**
20 **going to do it? 11:30:26**
21 A. I don't remember specifically.
22 **Q. This April 2006, that is the first**
23 **year, the first season in which you were the**
24 **Deputy Chief?**
25 MR. NOVIKOFF: Objection to the 11:30:37

1 Hesse
2 **Mr. Hesse, do you recognize the**
3 **document that has been marked as Hesse Exhibit**
4 **27?**
5 A. Yes. 11:29:07
6 **Q. What is this document?**
7 A. This was a memo sent out to all
8 officers of the department to come for a
9 meeting.
10 **Q. Did you send this to the five 11:29:18**
11 **plaintiffs?**
12 A. Yes.
13 **Q. Why did you send it to the five**
14 **plaintiffs if you made the decision to**
15 **terminate their employment? 11:29:23**
16 A. Because I wanted them to come to
17 the meeting with all their equipment.
18 **Q. You see in the fourth line down in**
19 **this memo it says new ID will be issued to**
20 **all? 11:29:37**
21 A. Yes.
22 **Q. Why did you send that to the**
23 **plaintiffs saying that new ID would be issued**
24 **to all?**
25 A. It was a generic letter that I 11:29:44

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1 Hesse
2 form only to the extent that the question
3 implies that April 2nd is part of the
4 season.
5 **Q. That is a good point. 11:30:47**
6 **The meeting on April 2nd, that was**
7 **the first preseason meeting that you presided**
8 **over as Deputy Chief or Acting Deputy Chief?**
9 A. Yes.
10 **Q. In all the other prior seasons Ed 11:30:59**
11 **Paradiso was still actively working as the**
12 **chief?**
13 A. Yes.
14 **Q. And as you understand it this was**
15 **the first year, 2006, in which you had the 11:31:13**
16 **authority to hire and fire?**
17 A. That is what I believed, yes.
18 **Q. Did you notify Ed Paradiso that**
19 **you had terminated the five plaintiffs**
20 **employment prior to telling them on April 2nd? 11:31:31**
21 MR. CONNOLLY: Objection to the
22 form.
23 A. I don't think I did.
24 **Q. Why not?**
25 A. Well we were really not on 11:31:39

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1 Hesse
2 speaking terms at that point.
3 **Q. What do you mean by that?**
4 A. We just didn't see eye-to-eye on
5 certain things, and I was told that I was put 11:31:57
6 in charge of the Police Department because he
7 was not expected to come back and I was in
8 charge. I didn't have to check in with him.
9 **Q. Who told you that he was not**
10 **expected to come back? 11:32:06**
11 A. It was everybody's belief, the
12 village board, the mayors, everybody.
13 **Q. You said that you were told that**
14 **you were in charge of the police station, he**
15 **wasn't expected back. Who told you that? 11:32:14**
16 A. It might have been Trustee
17 Loeffler.
18 **Q. When you say Trustee Loeffler,**
19 **Joseph Loeffler, Jr.?**
20 A. Yes. 11:32:21
21 **Q. Did he tell you that you didn't**
22 **need to check in with Ed Paradiso on decisions**
23 **affecting the police station?**
24 MR. CONNOLLY: Objection.
25 A. Specifically no. 11:32:34

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1 Hesse
2 Mr. Fiorillo if he could please wash the
3 windows, the front windshield of the car when
4 we got back to the station house, and he flat
5 out told me no. 11:34:00
6 I turned around, I said what do
7 you mean no. His phrase to me is I am not
8 fucking doing it. Get somebody else to do it.
9 I do enough around here. I stopped the
10 vehicle and I said if he chose not to do it he 11:34:17
11 can go home. He shut up and we drove the rest
12 of the way into work and then I told him not
13 to do it and I put him on a post.
14 **Q. Was Frank Fiorillo on duty when**
15 **you told him to wash the windows? 11:34:33**
16 A. Yes.
17 MR. NOVIKOFF: Was he on duty when
18 he made the request in the car, or was he
19 on duty when he was asked to actually
20 wash the car? 11:34:46
21 **Q. Was he on duty when you made the**
22 **request in the car?**
23 A. Yes.
24 **Q. Was he on duty at the time that**
25 **you wanted him to actually perform the washing 11:34:52**

1 Hesse
2 **Q. Did you invite Ed Paradiso to the**
3 **meeting?**
4 A. No.
5 **Q. How come? 11:32:40**
6 A. I don't know.
7 **Q. Why did you terminate Frank**
8 **Fiorillo?**
9 A. Because of his regular
10 insubordination and I felt that now that I was 11:32:56
11 the chief that he would continue with his
12 insubordination.
13 **Q. Any other reasons?**
14 A. No.
15 **Q. What incidents of insubordination 11:33:10**
16 **led you to terminate him?**
17 A. Like I stated on the first day,
18 specifically one incident that sticks out is
19 we were driving in to work, it was myself,
20 John Dwyer, Paul Corolla and Mr. Fiorillo in 11:33:27
21 the car. I had given an order to John Dwyer
22 who was a paramedic at the time to please go
23 over all the medical gear in the station house
24 to make sure that we have all our equipment
25 up-to-date, and I turned around and I asked 11:33:47

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1 Hesse
2 **of the window?**
3 A. He would have been on duty, yes.
4 **Q. Was he getting paid for that time?**
5 A. Yes. 11:35:00
6 MR. NOVIKOFF: Objection.
7 MR. CONNOLLY: Which time?
8 **Q. Was he getting paid for the time**
9 **that you wanted him to wash the window?**
10 A. Yes. 11:35:10
11 **Q. Was he getting paid at the time**
12 **that you had directed him not to wash the**
13 **window?**
14 A. Yes.
15 **Q. Are you sure about that? 11:35:16**
16 A. We were in the police car.
17 **Q. Did you write Mr. Fiorillo up for**
18 **that?**
19 A. Yes, I did.
20 **Q. Did you put it in his personnel 11:35:27**
21 **file?**
22 A. Yes.
23 RQ Q. I would like to mark the record to
24 request the production of the alleged
25 write-up, I don't think we have it. 11:35:42

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1 Hesse
2 MR. CONNOLLY: I am sure it was
3 requested?
4 THE WITNESS: It was.
5 **Q. Did you report Mr. Fiorillo to Ed 11:35:50**
6 **Paradiso?**
7 A. Yes.
8 **Q. Do you know whether Mr. Fiorillo**
9 **reported the incident to Ed Paradiso?**
10 A. Yes, he did. 11:36:01
11 **Q. Did Ed Paradiso tell you that**
12 **Fiorillo had complained to him about the**
13 **incident?**
14 A. Yes, he did.
15 **Q. Is it true that you placed Mr. 11:36:12**
16 **Fiorillo in the same post for three straight**
17 **tours and told him he couldn't move in**
18 **response to his complaint to Mr. Paradiso?**
19 A. No, I did not.
20 MR. NOVIKOFF: Your question was 11:36:27
21 kind of compound. I didn't object, I
22 will take his answer, but you may want to
23 clarify.
24 **Q. Did you ever place Mr. Fiorillo at**
25 **the same post for three straight tours and 11:36:35**

Page 622

1 Hesse
2 **Denhoff in response to his refusal to wash the**
3 **windows?**
4 A. Yes.
5 **Q. Did you tell him that? 11:37:31**
6 A. Yes.
7 **Q. Is that reflected in your write-up**
8 **of him?**
9 A. I don't specifically remember.
10 **Q. Did you tell anybody that you were 11:37:39**
11 **placing him, other than Mr. Fiorillo, did you**
12 **tell anyone else that you were placing him at**
13 **that corner for refusing to wash the windows?**
14 A. I don't recall.
15 **Q. What was the reason that you told 11:37:51**
16 **Mr. Fiorillo that he was being terminated?**
17 A. Mr. Fiorillo's regular patrol duty
18 was the use of a G.E.M. car and residential
19 patrol, that was like his favorite thing to
20 do, and so I took it away from him and I put 11:38:09
21 him on a foot post.
22 MR. CONNOLLY: Different question.
23 **Q. My question is what reason did you**
24 **tell Mr. Fiorillo on April 2, 2006 was the**
25 **reason for his termination? 11:38:22**

1 Hesse
2 **direct him not to move?**
3 MR. CONNOLLY: At any time?
4 **Q. At any time?**
5 A. Pretty much the same compound 11:36:42
6 question, but he was put on a post for three
7 days, but he can move around.
8 **Q. What post?**
9 A. The corner of Denhoff and Bay
10 Walk. 11:36:55
11 **Q. Was that in response to his**
12 **complaint to Mr. Paradiso?**
13 A. No.
14 **Q. Was it at or about the same time**
15 **or shortly after his complaint to Mr. 11:37:04**
16 **Paradiso?**
17 A. No.
18 **Q. Was it before or after the**
19 **complaint to Mr. Paradiso that he was placed**
20 **on that corner? 11:37:12**
21 A. It was before.
22 **Q. Was it before or after he was told**
23 **to wash the windows?**
24 A. It was after.
25 **Q. So you put him at that post on 11:37:22**

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1 Hesse
2 MR. NOVIKOFF: Objection to the
3 form.
4 **Q. At some point on April 2, 2006 you**
5 **told Mr. Fiorillo -- at some point on April 2, 11:38:31**
6 **2006 you told Mr. Fiorillo that he was being**
7 **terminated; correct?**
8 A. Yes, I told him he was not coming
9 back to work.
10 **Q. What reason did you give him for 11:38:41**
11 **making that decision to terminate his**
12 **employment?**
13 A. I flat out told him because of his
14 insubordination on a regular basis is why I
15 felt it necessary that he did not any longer 11:38:55
16 work for us or me.
17 **Q. You didn't tell him that it was**
18 **due to budget cuts?**
19 A. Absolutely not.
20 **Q. And other than for the one 11:39:06**
21 **incident that you testified to what other**
22 **incidents of insubordination led you to**
23 **terminate his employment?**
24 A. There were other incidents that
25 were not written up because I felt it 11:39:15

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<p>1 Hesse</p> <p>2 justified enough to speak to the individual</p> <p>3 officer. But one that -- there was one night</p> <p>4 in particular, I don't remember the date, it</p> <p>5 was probably in 2004, we had a possible rape 11:39:27</p> <p>6 investigation going on, we were backed up on</p> <p>7 paperwork and I asked him stop writing</p> <p>8 summonses, you are backing up the log, you are</p> <p>9 tying up the radio.</p> <p>10 I had to take him off his post, 11:39:42</p> <p>11 take a post in front of the police station,</p> <p>12 and he subsequently started to write more</p> <p>13 summonses. He just -- that was a regular type</p> <p>14 of situation that would go on with Mr.</p> <p>15 Fiorillo. 11:39:58</p> <p>16 Q. When was that incident?</p> <p>17 A. It might have been in 2004.</p> <p>18 Q. And did you ever speak to Chief</p> <p>19 Paradiso about that?</p> <p>20 A. About that specifically, no. 11:40:04</p> <p>21 Q. How come?</p> <p>22 A. Because I didn't find it</p> <p>23 necessary.</p> <p>24 Q. But that was one of the reasons</p> <p>25 that you terminated his employed? 11:40:11</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 A. Why I didn't ask him back, yes.</p> <p>4 Q. I think you said you didn't write</p> <p>5 him up; correct? 11:40:19</p> <p>6 A. That is correct.</p> <p>7 Q. Any other alleged incidents of</p> <p>8 insubordination that led you to terminate his</p> <p>9 employment?</p> <p>10 A. There were others, but 11:40:24</p> <p>11 specifically I can't recall.</p> <p>12 Q. So the only two that you can</p> <p>13 recall are the two that you testified to?</p> <p>14 A. Right now, yes.</p> <p>15 Q. Did you tell him that those two 11:40:35</p> <p>16 specific instances led to his termination?</p> <p>17 A. I don't know if I said those two</p> <p>18 incidents specifically, but I told him about</p> <p>19 his insubordination. I told him that it was</p> <p>20 best that he just move on with his life. 11:40:47</p> <p>21 Q. Anything else discussed during</p> <p>22 that conversation that you had with Mr.</p> <p>23 Fiorillo on April 2nd?</p> <p>24 A. Yes, he proceeded to state that he</p> <p>25 would do whatever I asked him to do, and I 11:40:56</p>
Page 626	Page 627
<p>1 Hesse</p> <p>2 told him I didn't believe him, and that he</p> <p>3 should just move on and we shook hands and</p> <p>4 parted ways.</p> <p>5 Q. Anything else discussed during 11:41:08</p> <p>6 that meeting?</p> <p>7 A. No.</p> <p>8 Q. Where was that meeting held?</p> <p>9 A. That was a one-on-one conversation</p> <p>10 that he and I had in the what is called the 11:41:14</p> <p>11 boat house in Ocean Beach.</p> <p>12 Q. So there was nobody else during</p> <p>13 that conversation?</p> <p>14 A. Not inside the room, no.</p> <p>15 Q. What did you tell Mr. Carter the 11:41:28</p> <p>16 reason for his layoff?</p> <p>17 A. Well, Mr. Carter did want a leave</p> <p>18 of absence which he took on his own and, you</p> <p>19 know, I explained to him that his -- he would</p> <p>20 sleep on duty regularly and he would brag 11:41:53</p> <p>21 about it. And I explained to him, you just</p> <p>22 had twins, you have a full-time job, then you</p> <p>23 come into Ocean Beach to sleep. It is not</p> <p>24 fair to me and the other officers, that he</p> <p>25 would brag about it and everything else. 11:42:10</p>	<p>1 Hesse</p> <p>2 I just told him, I said maybe it</p> <p>3 is best that you just concentrate on your</p> <p>4 family life, concentrate on your job and just</p> <p>5 move on. 11:42:19</p> <p>6 Q. Did you ever witness him sleeping</p> <p>7 on the job?</p> <p>8 A. Yes.</p> <p>9 Q. How many times?</p> <p>10 A. Over 16 years of working with him, 11:42:24</p> <p>11 I don't know, a handful.</p> <p>12 Q. Did you ever write him up for it?</p> <p>13 A. No.</p> <p>14 Q. How come?</p> <p>15 A. Because I didn't find it necessary 11:42:33</p> <p>16 to write him up for it.</p> <p>17 Q. Did you ever speak with Ed</p> <p>18 Paradiso about Mr. Carter's sleeping on the</p> <p>19 job?</p> <p>20 A. I don't specifically recall. 11:42:45</p> <p>21 Q. Did you ever speak with any of the</p> <p>22 prior chiefs that you worked under -- did you</p> <p>23 work under any other prior chiefs?</p> <p>24 A. No.</p> <p>25 Q. So you don't recall ever speaking 11:42:53</p>

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1 Hesse
2 with Mr. Paradiso about your allegation that
3 Mr. Carter slept?
4 A. No.
5 Q. Did you ever counsel him about his 11:43:01
6 sleeping.
7 A. I spoke to him about it.
8 Q. How many times?
9 A. I don't recall.
10 Q. Was anybody present during these 11:43:09
11 alleged conversations?
12 A. No.
13 Q. Is that the reason why you
14 terminated Ed Carter?
15 A. That is the reason why I let him 11:43:20
16 go, yes.
17 Q. Isn't it true that you told him
18 that he was being terminated because of
19 directives?
20 MR. CONNOLLY: Objection. 11:43:31
21 A. Well the directives being sleeping
22 on duty, yes.
23 Q. You explained to him that that was
24 the directive that he was being terminated
25 for? 11:43:40

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1 Hesse
2 A. Yes.
3 Q. Did you tell anyone on the Board
4 of Trustees to whom you sent the memo to that
5 the reason that you fired Ed Carter was 11:44:35
6 because he was sleeping?
7 A. I don't know if I specifically.
8 Q. Did you tell anyone on the Board
9 of Trustees that the reason why you fired
10 Frank Fiorillo was due to his insubordination? 11:44:45
11 MR. CONNOLLY: Again making
12 reference to the memo?
13 Q. The people that you sent the memo
14 to?
15 A. Specifically I didn't write it in 11:44:52
16 the memo, no.
17 Q. How about in any other way did you
18 communicate to the trustees to whom you wrote
19 that memo to that the reason that you fired
20 Fiorillo was due to his alleged 11:45:05
21 insubordination?
22 MR. CONNOLLY: Again at any time?
23 A. I believe I did.
24 Q. Who did you tell that to?
25 A. Trustee Loeffler and Mayor Rogers, 11:45:13

1 Hesse
2 A. Specifically yes, he should not be
3 sleeping on duty.
4 Q. I am asking is that what you told
5 him specifically? 11:43:49
6 MR. CONNOLLY: Using that specific
7 word.
8 A. I may have used the word
9 directive, failed to follow directive of not
10 to sleep on duty. I may have said that, yes. 11:43:56
11 Q. I just want to be clear, you told
12 him that his sleeping was the reason why you
13 were terminating him?
14 A. Yes.
15 Q. Was anybody else there when you 11:44:06
16 told him that?
17 A. No, that was a one-on-one
18 conversation.
19 Q. Did you tell Paul Trosko that that
20 was the reason that you were terminating Ed 11:44:16
21 Carter?
22 A. Yes.
23 Q. Did you tell Paul Trosko that that
24 was the reason why you were terminating Mr.
25 Fiorillo? 11:44:29

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1 Hesse
2 and I believe in conversation I had said
3 something to Maryann Minerva, the Village
4 Clerk.
5 Q. As to the reason why? 11:45:28
6 A. Yes.
7 Q. When was that?
8 A. I don't recall the dates.
9 Q. Was it before or after you told
10 them that you were terminating him? 11:45:35
11 A. I believe it was after.
12 Q. How long after?
13 A. I don't know.
14 Q. Was it days, weeks, months, years?
15 A. It could have been. 11:45:40
16 Q. Which one?
17 A. It could have been all of them
18 over the course, time after time of talking
19 about this. I don't know.
20 Q. When was the first time that you 11:45:49
21 informed Maryann Minerva of the reasons that
22 you terminated the five plaintiffs?
23 A. Probably after I wrote the memo
24 and sent the memo on to them.
25 Q. How long after? 11:46:04

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1 Hesse
2 A. I don't recall.
3 **Q. Why did you terminate Kevin Lamm?**
4 A. You know, Kevin is -- that is a
5 unique situation. This guy left on his own, 11:46:14
6 never put anything in writing, took a
7 full-time job somewhere else. I kind of heard
8 that he got a full-time job. He didn't work
9 for six or eight months. You know, he is an
10 angry individual. He abuses the people that 11:46:31
11 he deals with, that he came in contact with.
12 He was another one that could be
13 insubordinate every once in a while. I just
14 thought that it was best that he moved on with
15 his career and stayed at his full-time job. 11:46:46
16 **Q. Did you ever report to Ed Paradiso**
17 **that Kevin Lamm allegedly abused people who he**
18 **came in contact with?**
19 A. Specifically no, I don't remember.
20 **Q. Do you think that would have been 11:46:57**
21 **important to tell the Chief of Police that one**
22 **of his police officers was abusing people?**
23 A. Yes, we had conversations, we had
24 these conversations. But Ed Paradiso kind of
25 liked these guys and had a soft spot for them. 11:47:11

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1 Hesse
2 thought it was best that he just move on.
3 **Q. Is it true that you told him that**
4 **it was due to budget cuts?**
5 A. No. 11:48:13
6 **Q. Were there budget cuts that year?**
7 A. No.
8 **Q. Had you ever spoken to Ed Paradiso**
9 **that you wanted to terminate Kevin Lamm?**
10 A. You know specifically I don't 11:48:30
11 remember.
12 **Q. Why did you terminate Tom Snyder?**
13 A. You know, Tommy at the end, at the
14 end of his employment he wasn't showing up to
15 work, he was giving other guys his tours 11:48:44
16 without calling in. I think he had some
17 personal issues going on and, you know, it is
18 funny because I never had a specific
19 conversation with Tommy about saying that I
20 was letting him go or anything. He just kind 11:49:00
21 of faded away, and I had no hours available
22 for him, and I just didn't put him back on the
23 schedule. So we never had an official
24 conversation.
25 **Q. Did you ever write Kevin Lamm up 11:49:14**

1 Hesse
2 So I guess he thought it wasn't a big deal, I
3 don't know.
4 **Q. When was the first time that Kevin**
5 **Lamm abused somebody? 11:47:21**
6 A. I don't know. I don't recall.
7 **Q. How come you didn't ask for his**
8 **termination at that point in time?**
9 A. I worked with Kevin when I was
10 just a PO, it was not my job. 11:47:33
11 **Q. How about when you became a**
12 **supervisor?**
13 A. We had some conversations.
14 **Q. How come you didn't ask for his**
15 **termination at that time? 11:47:41**
16 A. Because I didn't find it necessary
17 and it was not my job to terminate him.
18 **Q. Has Kevin ever been sued for any**
19 **alleged abuse?**
20 A. I don't know. 11:47:50
21 **Q. What was the reason that you told**
22 **Kevin Lamm that you were terminating him?**
23 A. Just exactly how I explained it to
24 you. He left, he didn't put anything in
25 writing. He took a full-time job and I 11:48:03

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1 Hesse
2 **for his alleged abuse?**
3 A. I don't recall specifically. I
4 don't think so.
5 **Q. Did you ever write him up for 11:49:22**
6 **insubordination?**
7 A. I don't think so.
8 **Q. Did you ever write him up for**
9 **being angry?**
10 A. I don't think so, no. 11:49:29
11 **Q. When did you tell Mr. Snyder that**
12 **he was being terminated?**
13 A. I think I just stated, I don't
14 think I ever actually told him that.
15 **Q. Did you meet with him on the dock 11:49:55**
16 **one night and asked for his shield and weapon?**
17 A. Yeah, we actually met up when I
18 was working for the harbor police and he was
19 working for the town. I actually met him at
20 the Maple Avenue dock. I needed -- I actually 11:50:11
21 needed his weapon back so I could get somebody
22 else qualified on the Glock, because I was
23 short weapons. But I don't know if he
24 specifically turned in his shield that day
25 either. 11:50:29

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1 Hesse

2 **Q. Did you schedule to meet him**

3 **there?**

4 A. I think it was like a chance

5 thing, that he was working, I was working and 11:50:35

6 we met up.

7 **Q. Did you run into each other?**

8 A. No, I think we communicated

9 somehow, because I might have asked him that I

10 needed the weapon back and he knew that I was 11:50:45

11 working this particular day, so we met up and

12 he handed over his weapon.

13 **Q. Why did you tell him that you were**

14 **terminating him?**

15 A. Well for the third time I don't 11:50:57

16 think I ever told him that he was being

17 terminated.

18 **Q. Isn't it true that you told him**

19 **that it was because he was the guy who ratted**

20 **to Civil Service about the uncertified 11:51:06**

21 **officers?**

22 A. Absolutely not.

23 **Q. Did he hand over his shield that**

24 **day?**

25 A. I don't remember. 11:51:22

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1 Hesse

2 **scheduling conflicts?**

3 A. He has been written up for that.

4 I wouldn't say written up, but advised not to

5 do that. 11:52:37

6 **Q. In writing?**

7 A. Yes.

8 RQ **Q. I would like to mark the record to**

9 **request production of any alleged written**

10 **warning or writings that -- 11:52:45**

11 A. It has been produced.

12 **Q. Did you ever write him up for his**

13 **poor interaction with people?**

14 A. No.

15 **Q. Did you ever discuss any of those 11:52:55**

16 **issues with Ed Paradiso?**

17 A. Yes.

18 **Q. Which ones?**

19 A. All of them.

20 **Q. What was Ed Paradiso's response? 11:53:03**

21 A. You know, I don't really recall.

22 **Q. Isn't it true that you told Joe**

23 **Nofi that he was being terminated due to**

24 **budget cuts?**

25 A. No. 11:53:19

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1 Hesse

2 **Q. Why did you terminate Joe Nofi?**

3 A. Joe Nofi, he was a unique person.

4 He just could never concentrate on one thing.

5 His summonses were poor, his appearance was 11:51:38

6 poor. It was always a scheduling conflict

7 with him. You know, he would be scheduled to

8 work, he wouldn't show up, he would have

9 somebody else take his tour. I just didn't

10 want to tolerate it any more, so I asked him 11:51:55

11 to move on also.

12 **Q. What were the reasons that you**

13 **told him that he was being terminated?**

14 A. I just explained that, I gave him

15 the same jargon that I just give you. That 11:52:05

16 his appearance was poor, his work was poor,

17 his attitude was poor. His interaction with

18 people was really poor.

19 **Q. Did you ever write him up for his**

20 **poor summonses? 11:52:23**

21 A. No.

22 **Q. Did you ever write him up for a**

23 **poor appearance?**

24 A. No.

25 **Q. Did you ever write him up for 11:52:29**

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1 Hesse

2 **Q. Isn't it true that you told him on**

3 **that day that he is not like the other four**

4 **assholes that you were terminating?**

5 A. No way. 11:53:30

6 **Q. You told him he was a good man and**

7 **a good father?**

8 A. No.

9 **Q. Was anyone else present when you**

10 **told Joe Nofi the reasons for his termination? 11:53:37**

11 A. No.

12 MR. NOVIKOFF: I don't think you

13 asked that question with regard to the

14 other plaintiffs.

15 **Q. Was anyone else present when you 11:53:43**

16 **informed Mr. Lamm that he was terminated?**

17 A. No.

18 **Q. Was anyone else present when you**

19 **told Mr. Fiorillo that he was terminated?**

20 A. No. 11:53:57

21 **Q. Was anyone else present on the**

22 **docks the night that you spoke to Mr. Snyder**

23 **about returning his weapon and shield?**

24 A. It was a day shift, but no.

25 **Q. Was anyone else present at the 11:54:07**

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<p>1 Hesse</p> <p>2 time that you told Carter the reasons for his</p> <p>3 termination?</p> <p>4 A. No.</p> <p>5 Q. Why did you wait for them to come 11:54:12</p> <p>6 to the meeting on April 2nd to tell them that</p> <p>7 you were terminating their employment?</p> <p>8 A. I thought it was the best way to</p> <p>9 just get all the equipment back and be able to</p> <p>10 just have a sit down with them and tell them 11:54:29</p> <p>11 what was going on.</p> <p>12 Q. Did you think that it would be</p> <p>13 humiliating in front of the other officers who</p> <p>14 were assembled for the meeting?</p> <p>15 A. At the time, no. 11:54:39</p> <p>16 Q. How about now, do you think it was</p> <p>17 humiliating?</p> <p>18 A. In retrospect I should have done</p> <p>19 it a better way.</p> <p>20 Q. When did you decide to terminate 11:54:47</p> <p>21 Snyder?</p> <p>22 A. You know, I always liked Tommy, he</p> <p>23 is a good guy. I always thought he was a hard</p> <p>24 worker. But I thought at the end he just had</p> <p>25 some personal issues that were affecting his 11:55:06</p>	<p>1 Hesse</p> <p>2 job performance. He seemed to be angry with</p> <p>3 some of the other employees, and I thought it</p> <p>4 was just best that he move on at that time.</p> <p>5 Q. Which other employees was he angry 11:55:16</p> <p>6 with?</p> <p>7 A. Oh God. Ty Bacon, the Bosetti</p> <p>8 brothers, Arnie Hardman. Anybody that came on</p> <p>9 from the City job that came on to our job for</p> <p>10 some reason he had some kind of disdain toward 11:55:32</p> <p>11 City cops, and it was just becoming an issue.</p> <p>12 Q. Is that one of the reasons that</p> <p>13 you terminated him?</p> <p>14 A. It was one of the reasons why,</p> <p>15 yes. 11:55:43</p> <p>16 Q. Did he tell you why he didn't like</p> <p>17 the Bosetti's or Bacon or Hardman?</p> <p>18 A. Well there were comments being</p> <p>19 made by him and Carter about City cops because</p> <p>20 I think their boss on their job was a retired 11:55:54</p> <p>21 City cop that just got in trouble on their</p> <p>22 job, and for some reason they just hated City</p> <p>23 cops.</p> <p>24 Q. They told you that?</p> <p>25 A. Who is they? 11:56:09</p>
Page 642	Page 643
<p>1 Hesse</p> <p>2 Q. Mr. Snyder and I guess Ed Carter?</p> <p>3 A. Yes, they had told me that.</p> <p>4 Q. And they told you that they didn't</p> <p>5 like the Bosetti's because of that reason? 11:56:19</p> <p>6 A. I don't know if it was entirely</p> <p>7 specifically that reason, but that was</p> <p>8 definitely part of it.</p> <p>9 Q. Did you ever speak to the</p> <p>10 Bosetti's about their feelings for Snyder? 11:56:27</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 Foundation.</p> <p>13 A. I think it was known.</p> <p>14 Q. What was known?</p> <p>15 A. That they did not get along. They 11:56:36</p> <p>16 didn't like each other.</p> <p>17 Q. Why didn't the Bosetti's like</p> <p>18 Snyder?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 MR. NOVIKOFF: Objection. 11:56:44</p> <p>21 A. I think the Bosetti's felt that</p> <p>22 Tommy Snyder and -- Tommy Snyder specifically</p> <p>23 with the Halloween incident, they thought it</p> <p>24 was a set up on them to get them into trouble.</p> <p>25 Q. Did you think it was a set up on 11:56:58</p>	<p>1 Hesse</p> <p>2 them?</p> <p>3 A. No.</p> <p>4 Q. When did the Bosetti's let you</p> <p>5 know that they thought it was a set up? 11:57:03</p> <p>6 A. I think when I finally started to</p> <p>7 talk to them about the Halloween incident,</p> <p>8 they kept feeling that they were being set up.</p> <p>9 Q. Do you recall when the first time</p> <p>10 that they told you that? 11:57:22</p> <p>11 A. Specifically no. I brushed it</p> <p>12 off.</p> <p>13 Q. Did there come a point in time</p> <p>14 where you announced to the department the</p> <p>15 termination of the five plaintiffs? 11:57:40</p> <p>16 A. No.</p> <p>17 Q. Did you tell them that day that</p> <p>18 the five plaintiffs were being terminated?</p> <p>19 MR. CONNOLLY: They being those</p> <p>20 present at the meeting. 11:57:48</p> <p>21 MR. GOODSTADT: Yes. Right.</p> <p>22 MR. NOVIKOFF: Well actually your</p> <p>23 question I think he testified that he had</p> <p>24 not made the decision about Snyder prior</p> <p>25 to April 2nd. 11:57:58</p>

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1 Hesse
2 **Q. Did you announce to the officers**
3 **who were at the meeting that you had**
4 **terminated some of the plaintiffs?**
5 A. I don't know -- 11:58:09
6 **Q. Or all of the plaintiffs?**
7 A. I don't think I made an
8 announcement.
9 **Q. Did you tell them, did you tell**
10 **anybody there that day that any of the 11:58:17**
11 **plaintiffs had been terminated?**
12 A. I think I was specifically asked
13 and I said that they are going to move on with
14 their lives.
15 **Q. Did you tell them why? 11:58:26**
16 A. No.
17 **Q. Isn't it true that you told the**
18 **assembled officers that you terminated Carter**
19 **and Snyder because you thought they were going**
20 **to wear a wire for the DA? 11:58:36**
21 A. No.
22 **Q. Do you recall what Gary Bosetti's**
23 **reaction was when you told him that the**
24 **plaintiffs were terminated?**
25 A. What his specific reaction was, 11:58:49

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1 Hesse
2 **the remaining department?**
3 A. I think so.
4 **Q. Were any full-time officers hired**
5 **that year? 11:59:44**
6 A. Yes.
7 **Q. How many?**
8 A. I think just one.
9 **Q. Who was hired that year?**
10 A. I think that was Paul Trosko. 11:59:50
11 **Q. When was he hired?**
12 A. I don't remember the exact date.
13 **Q. Do you recall when he started**
14 **working?**
15 A. I would have to look back in the 12:00:04
16 records, no.
17 MR. GOODSTADT: Off the record.
18 MR. CONNOLLY: The calendar year
19 2006, when you said that year?
20 MR. GOODSTADT: Yes, I mean that 12:00:18
21 year, 2006. Off the record for two
22 seconds.
23 THE VIDEOGRAPHER: The time is
24 12:02, we are off the record.
25 (Recess taken.) 12:00:28

1 Hesse
2 no.
3 **Q. What Richard Bosetti's reaction**
4 **was?**
5 A. I don't know. 11:58:51
6 **Q. Isn't it true that they said its**
7 **about time that you got rid of those assholes?**
8 A. No.
9 **Q. Isn't it true that you told Gary**
10 **Bosetti that he owed you hours for making that 11:59:00**
11 **decision?**
12 A. I don't understand what you mean
13 by that.
14 **Q. That he owed you hours to work,**
15 **extra tours for terminating the plaintiffs? 11:59:11**
16 A. That he, Gary, owes me hours?
17 **Q. Yes.**
18 A. I don't know what you mean by
19 that, no.
20 **Q. Were other part-time officers 11:59:21**
21 **hired, newly hired for that summer?**
22 A. Yes.
23 **Q. How many?**
24 A. Three I believe.
25 **Q. Was Chris Moran at the meeting of 11:59:29**

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1 Hesse
2 THE VIDEOGRAPHER: The time is
3 12:15, we are on the record.
4 **Q. Is there something that you wanted**
5 **to add? 12:13:45**
6 A. You had asked about hiring
7 full-time police officers?
8 **Q. Right.**
9 A. Trosko was one, but we hired
10 another officer, Frank Foti, he might have 12:13:53
11 been at the end of 2006 or 2007.
12 **Q. Sir, isn't it true that after you**
13 **terminated the plaintiffs that you threatened**
14 **that Kevin Lamm, Frank Fiorillo and Joe Nofi's**
15 **law enforcement careers are over? 12:14:17**
16 MR. NOVIKOFF: That day or
17 subsequent?
18 **Q. At any point?**
19 MR. NOVIKOFF: Objection to the
20 form of the question. 12:14:25
21 MR. CONNOLLY: Objection.
22 A. Yes, I did say that.
23 **Q. When did you say that?**
24 A. I believe I said it to Eddie
25 Carter on the phone. 12:14:34

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1 Hesse

2 **Q. When was that?**

3 A. I don't remember the date.

4 **Q. Why did you tell him that?**

5 A. I was just angry at their actions. 12:14:40

6 **Q. What actions?**

7 A. Going to Civil Service, trying to

8 get me in trouble. You know, when is enough

9 enough.

10 **Q. I want to play the audio just to 12:14:54**

11 **identify that that is what you are referring**

12 **to. This has been previously produced in this**

13 **case.**

14 **(Audio played).**

15 **Do you recognize the voices in 12:15:24**

16 **that conversation?**

17 A. Yes.

18 **Q. Who are those voices?**

19 A. That would be Eddie Carter and

20 myself. 12:15:33

21 **Q. Did you ever call Mr. Fiorillo,**

22 **Mr. Nofi and Mr. Snyder mutts?**

23 A. Yes. I think in my second day of

24 testimony I might have said that.

25 **Q. Why did you call them mutts? 12:15:52**

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1 Hesse

2 **you?**

3 A. No.

4 **Q. Did you ever provide any**

5 **references, good or bad, for any of the 12:17:34**

6 **plaintiffs in the case subsequent to their**

7 **employment at Ocean Beach?**

8 MR. NOVIKOFF: Or neutral?

9 **Q. Or neutral?**

10 MR. CONNOLLY: Or did he respond 12:17:49

11 to any request for references?

12 **Q. Yes, or actively provide any**

13 **references.**

14 MR. CONNOLLY: Objection to the

15 form either way. 12:17:59

16 A. Boy that is confusing.

17 Yes, I believe all my responses

18 were neutral.

19 **Q. How many responses did you provide**

20 **on behalf of Frank Fiorillo? 12:18:06**

21 A. Specifically maybe two.

22 **Q. Do you recall what jobs they were**

23 **for?**

24 A. Southampton either village or

25 town. Maybe Riverhead. I don't specifically 12:18:22

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1 Hesse

2 A. Because I didn't like them very

3 much at that point.

4 **Q. Who did you call them mutts to?**

5 A. I don't recall. I don't know. 12:16:02

6 **Q. I am going to play an audio again,**

7 **previously produced, I want to identify the**

8 **voices on the audio.**

9 **(Audio played.)**

10 **Q. Do you recognize the voices on 12:16:38**

11 **that audio recording?**

12 A. Was that me, it didn't really

13 sound like me.

14 MR. CONNOLLY: Can you play that

15 again? 12:16:47

16 A. You got to turn that up a little

17 bit.

18 **Q. Sure.**

19 **(Audio played.)**

20 **Q. Do you recognize the voices in 12:17:15**

21 **that audio?**

22 A. Yes, it was Eddie Carter.

23 **Q. And who else?**

24 A. I believe it was me.

25 **Q. Any reason to believe it is not 12:17:30**

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1 Hesse

2 remember.

3 **Q. Who did you speak with in**

4 **Southampton with respect to Mr. Fiorillo?**

5 A. I believe there was a sergeant 12:18:32

6 that I spoke to.

7 **Q. Do you remember his name?**

8 A. No.

9 **Q. Was it Scott Foster, does that**

10 **ring a bell? 12:18:38**

11 A. No.

12 **Q. What did you state to the sergeant**

13 **in Southampton about Mr. Fiorillo?**

14 A. I didn't state anything. He had

15 asked me about him and I said that I cannot 12:18:45

16 give him any information. I will only confirm

17 dates of employment. And he asked me I think

18 to put that in writing which I did, and I sent

19 that out to Southampton.

20 **Q. Did you tell him that Mr. Fiorillo 12:19:01**

21 **was terminated?**

22 A. I don't think I did, no.

23 **Q. Did you tell him that Mr. Fiorillo**

24 **was suing you?**

25 A. No. 12:19:11

Page 652	Page 653
<p>1 Hesse</p> <p>2 Q. Do you recall anything else that</p> <p>3 you discussed with the sergeant from</p> <p>4 Southampton?</p> <p>5 A. No. 12:19:19</p> <p>6 Q. Do you recall when that</p> <p>7 conversation happened?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you recall whether it was days,</p> <p>10 weeks, months, years after you terminated Mr. 12:19:28</p> <p>11 Fiorillo?</p> <p>12 A. Definitely was not years. It</p> <p>13 could have been a few weeks maybe. I don't</p> <p>14 know. I don't recall.</p> <p>15 Q. Who at the Riverhead Police 12:19:39</p> <p>16 Department did you speak with with respect to</p> <p>17 Mr. Fiorillo?</p> <p>18 A. Like I said specifically Riverhead</p> <p>19 I wasn't real positive about. For some reason</p> <p>20 I feel that I had a message from the Chief of 12:19:54</p> <p>21 the Riverhead Police Department that I</p> <p>22 responded back to. I don't think I spoke to</p> <p>23 him, it might have been a sergeant or a</p> <p>24 lieutenant, I don't remember specifically.</p> <p>25 Q. Do you recall what you stated in 12:20:07</p>	<p>1 Hesse</p> <p>2 that conversation to the sergeant or</p> <p>3 lieutenant who you spoke with?</p> <p>4 A. The conversations were very brief</p> <p>5 and I stated dates of employment only, that is 12:20:16</p> <p>6 it. I don't believe I put anything in writing</p> <p>7 for them.</p> <p>8 Q. Did you tell them that Mr.</p> <p>9 Fiorillo was terminated?</p> <p>10 A. No. 12:20:28</p> <p>11 Q. Did you explain to him why you</p> <p>12 couldn't provide any additional information?</p> <p>13 A. No.</p> <p>14 Q. Did you explain to the person at</p> <p>15 Southampton that you spoke with why you 12:20:35</p> <p>16 wouldn't provide any additional information?</p> <p>17 A. I don't believe I ever did.</p> <p>18 Q. Did you ever speak to anyone or</p> <p>19 communicate with anyone in the Northport Bay</p> <p>20 Police Department with respect to Mr. 12:20:48</p> <p>21 Fiorillo?</p> <p>22 A. Northport, no.</p> <p>23 Q. How about Huntington Bay Police</p> <p>24 Department?</p> <p>25 A. Mr. Fiorillo, no. 12:20:54</p>
Page 654	Page 655
<p>1 Hesse</p> <p>2 Q. How about Quogue Village Police</p> <p>3 Department?</p> <p>4 A. No. Quogue, no.</p> <p>5 Q. How about anyone with respect to 12:21:04</p> <p>6 the Village of Babylon?</p> <p>7 A. No.</p> <p>8 Q. Code Enforcement Officer?</p> <p>9 A. No.</p> <p>10 Q. Did you ever speak with anyone at 12:21:11</p> <p>11 the Town of Brookhaven with respect to Mr.</p> <p>12 Fiorillo?</p> <p>13 A. No.</p> <p>14 Q. Did you ever provide any</p> <p>15 references or respond to any request for 12:21:24</p> <p>16 references on behalf of Mr. Snyder?</p> <p>17 A. I don't believe I got any from Mr.</p> <p>18 Snyder.</p> <p>19 Q. How about with respect to the John</p> <p>20 T. Mather Memorial Hospital? 12:21:41</p> <p>21 A. I never got anything from them.</p> <p>22 Q. How about the Town of Brookhaven?</p> <p>23 A. I don't believe I got anything</p> <p>24 from them either.</p> <p>25 Q. I am not asking whether you got 12:21:54</p>	<p>1 Hesse</p> <p>2 anything. I am asking whether you ever</p> <p>3 communicated with anyone over there with</p> <p>4 respect to Mr. Snyder?</p> <p>5 MR. NOVIKOFF: Objection to the 12:22:00</p> <p>6 form.</p> <p>7 Q. With respect to a potential</p> <p>8 employment opportunity for Mr. Snyder?</p> <p>9 MR. NOVIKOFF: Foundation.</p> <p>10 Objection. 12:22:05</p> <p>11 A. I understand what you are asking,</p> <p>12 but when I say I have not gotten anything, I</p> <p>13 don't think I received a phone call or any</p> <p>14 documentation that said that he was applying</p> <p>15 for the job. 12:22:15</p> <p>16 Q. How about the Suffolk County Park</p> <p>17 Rangers?</p> <p>18 A. Suffolk County Park Rangers; no.</p> <p>19 Q. Did you ever provide any reference</p> <p>20 or respond to any request for a reference on 12:22:26</p> <p>21 of Ed Carter?</p> <p>22 A. I believe there was only one thing</p> <p>23 that came up with Mr. Carter.</p> <p>24 Q. What came up with Mr. Carter?</p> <p>25 A. He called me to ask me if I would 12:22:37</p>

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<p>1 Hesse</p> <p>2 give him a reference, it had something to do</p> <p>3 with the town and Chief Greg Decanio from the</p> <p>4 Islip Airport Police was going to call me in</p> <p>5 reference to something to do with Eddie 12:22:57</p> <p>6 Carter, and I told Eddie that I would only</p> <p>7 tell them the truth of why he was let go.</p> <p>8 Q. Did you speak to Decanio?</p> <p>9 A. At some point I did, yes.</p> <p>10 MR. NOVIKOFF: Can you spell that? 12:23:14</p> <p>11 THE WITNESS: I have no idea.</p> <p>12 MR. NOVIKOFF: D-E-C-A-N-I-O.</p> <p>13 Q. Did you speak with Decanio before</p> <p>14 or after you spoke to Carter about Decanio?</p> <p>15 A. After. 12:23:35</p> <p>16 Q. So Ed didn't call you before and</p> <p>17 say you need to speak with Decanio?</p> <p>18 A. I don't think so. He called me</p> <p>19 first and said that Greg would be calling me</p> <p>20 or to have me call Greg, and I talked to Greg 12:23:44</p> <p>21 Decanio after I spoke to Ed Carter.</p> <p>22 Q. What did you tell Greg Decanio?</p> <p>23 A. I told Greg that Eddie Carter is a</p> <p>24 good guy, that the reason why I had let him go</p> <p>25 was because of his sleeping on duty. I said 12:24:00</p>	<p>1 Hesse</p> <p>2 that once again just like I reiterated before,</p> <p>3 that he had just had twins, I think he over</p> <p>4 exerted himself. I think he was doing too</p> <p>5 much. That the best thing was to just move 12:24:13</p> <p>6 on.</p> <p>7 Q. How come you told Decanio details</p> <p>8 of why you terminated Carter, but didn't tell</p> <p>9 for example the Southampton Police Department</p> <p>10 details of your termination of Fiorillo? 12:24:26</p> <p>11 A. I know Greg, I am not going to</p> <p>12 sugar coat it with Greg. Greg I know a long</p> <p>13 time. We have done some training together,</p> <p>14 and upon Eddie Carter's request I called him.</p> <p>15 Q. You called Decanio or he called 12:24:41</p> <p>16 you?</p> <p>17 A. I believe I reached out to him. I</p> <p>18 don't believe Greg ever called me.</p> <p>19 Q. Did you ever submit anything in</p> <p>20 writing to Decanio? 12:24:52</p> <p>21 A. No.</p> <p>22 Q. Did you ever submit anything in</p> <p>23 writing with respect to Ed Carter at all in</p> <p>24 connection with a reference or in response to</p> <p>25 a reference to anyone? 12:25:05</p>
Page 658	Page 659
<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Did you ever provide any</p> <p>4 references or respond to any reference</p> <p>5 requests with respect to Kevin Lamm? 12:25:10</p> <p>6 A. None.</p> <p>7 Q. Never spoke with anyone or</p> <p>8 communicated with anyone at the Lloyd Harbor</p> <p>9 Police Department?</p> <p>10 A. I did get a phone call from the 12:25:19</p> <p>11 Chief in Lloyd Harbor.</p> <p>12 Q. So when you said none it is not</p> <p>13 correct?</p> <p>14 A. It is correct.</p> <p>15 Q. You never spoke with the chief? 12:25:26</p> <p>16 A. I spoke to the chief.</p> <p>17 Q. Tell me about your call, tell me</p> <p>18 everything you recall in that discussion with</p> <p>19 the chief from Lloyd Harbor?</p> <p>20 A. I think he was served with a 12:25:36</p> <p>21 subpoena in reference to this case, and he</p> <p>22 wanted some details about what was going on,</p> <p>23 he didn't understand why. I said that I was</p> <p>24 being sued for some wrongful termination. And</p> <p>25 I said these were the names that were involved 12:25:53</p>	<p>1 Hesse</p> <p>2 with the suit, and he recognized I believe</p> <p>3 Kevin Lamm's name because I think Kevin was on</p> <p>4 their list for a full-time position. And they</p> <p>5 gave it to somebody else, but that was 12:26:07</p> <p>6 previous to me speaking to them.</p> <p>7 Q. Had you spoken to anyone at Lloyd</p> <p>8 Harbor prior to them calling you about the</p> <p>9 subpoena?</p> <p>10 A. No. 12:26:20</p> <p>11 Q. Did you tell them the reasons why</p> <p>12 you were being sued other than for generically</p> <p>13 wrongful termination?</p> <p>14 MR. NOVIKOFF: Objection to the</p> <p>15 form. 12:26:27</p> <p>16 A. No.</p> <p>17 Q. What else did you discuss with the</p> <p>18 Lloyd Harbor Chief at that time?</p> <p>19 A. I forget what his name is, but it</p> <p>20 turns out that he had his start in Ocean Beach 12:26:34</p> <p>21 when he was a seasonal police officer. So we</p> <p>22 talked about the good old days with Joe</p> <p>23 Loeffler as chief and the things that went on</p> <p>24 back in the day.</p> <p>25 Q. Anything else? 12:26:58</p>

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1 Hesse
2 A. No.
3 Q. Did you speak to anyone at
4 Huntington Bay Police Department about Kevin
5 Lamm? 12:27:08
6 A. No.
7 Q. Did you speak to anyone in the
8 Ashroken Village Police Department?
9 A. No.
10 Q. How about Suffolk County Police 12:27:15
11 Department with respect to Kevin Lamm?
12 A. I believe his investigator had
13 called me and wanted me to put something in
14 writing on why he no longer worked for the
15 department, and I told her the only thing that 12:27:29
16 I would do is confirm dates of employment.
17 Q. Did you do that in writing?
18 A. I don't believe I ever did, no.
19 Q. How come?
20 A. I don't think that is what she 12:27:38
21 wanted, so I wound up not doing it.
22 Q. Did you ever submit anything in
23 writing to Suffolk County Police Department
24 with respect to Kevin Lamm?
25 A. No. 12:27:51

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1 Hesse
2 A. I don't recall his name.
3 Q. How long was the conversation?
4 A. A couple of minutes.
5 Q. Tell me everything that you recall 12:28:51
6 that you spoke to him about?
7 A. Well I was faxed a request to fill
8 out some kind of form for reference, and all I
9 did was confirm dates of employment and faxed
10 it back. 12:29:12
11 Q. Did you fill in any other
12 sections?
13 A. Specifically I don't recall if I
14 filled out anything else other than that.
15 Q. Did you cross out any of the 12:29:23
16 sections?
17 A. No.
18 Q. Did you ever speak with anyone
19 from Collier County?
20 A. After I responded back by fax 12:30:03
21 there was an investigator who did call me.
22 Q. Do you recall that investigators
23 name?
24 A. No.
25 Q. What did you discuss with the 12:30:10

1 Hesse
2 Q. How about the Southampton Village
3 Police Department, did you ever communicate
4 with them with respect to Kevin Lamm?
5 A. No. 12:28:02
6 Q. How about the Northport Village
7 Police Department, did you ever communicate
8 with them or anyone there with respect to
9 Kevin Lamm?
10 A. No. 12:28:06
11 Q. Did you ever communicate with
12 anyone at the Town of Islip Airport security
13 guard group with respect to Kevin Lamm?
14 A. No.
15 Q. How about Joe Nofi, did you ever 12:28:19
16 communicate with anyone with respect to a
17 reference or respond to a request for a
18 reference for Joe Nofi?
19 A. Yes.
20 Q. Who did you respond to or speak 12:28:28
21 with?
22 A. I believe I spoke to an
23 investigator from the Collier County Sheriff's
24 Department in Florida.
25 Q. Who did you speak with there? 12:28:42

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1 Hesse
2 investigator?
3 A. He had asked me if there was any
4 other information that I could provide. I
5 told him no, but I did advise him about the 12:30:17
6 lawsuit against me.
7 Q. Why did you advise him about the
8 lawsuit against you?
9 A. Because I thought it was pertinent
10 to advise him. 12:30:29
11 Q. Why?
12 A. Because it is public information
13 that I am being sued by this individual.
14 Q. So is it your understanding that
15 at the time you spoke with the investigator 12:30:40
16 that it was public information that you were
17 being sued?
18 A. Yes, it was.
19 Q. You actually had been served with
20 a copy of the lawsuit? 12:30:51
21 A. Yes.
22 Q. Positive about that?
23 A. I am pretty sure, yes.
24 MR. GOODSTADT: Would you mark
25 this document as Hesse Exhibit 28, 12:31:03

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<p>1 Hesse</p> <p>2 Employment, Collier County Sheriff's</p> <p>3 Office, Employment Reference Prior</p> <p>4 Experience.</p> <p>5 (Hesse Exhibit 28, Employment, 12:31:04</p> <p>6 Collier County Sheriff's Office,</p> <p>7 Employment Reference Prior Experience,</p> <p>8 marked for identification, as of this</p> <p>9 date.)</p> <p>10 Q. I placed in front of Mr. Hesse 12:31:39</p> <p>11 what has been marked as Exhibit 28, a</p> <p>12 four-page exhibit bearing Bates CCSO 147</p> <p>13 through 150. I ask you to look at pages 149</p> <p>14 and 150?</p> <p>15 A. Okay. 12:32:02</p> <p>16 Q. Do you recall, turn to page 150,</p> <p>17 do you see a signature there?</p> <p>18 A. A signature.</p> <p>19 Q. On the bottom left, do you see</p> <p>20 that, it says Denado or Donohoe, do you see 12:32:14</p> <p>21 that signature?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Does that refresh your</p> <p>24 recollection as to the name of the person that</p> <p>25 you spoke with? 12:32:29</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. Was it Donohoe?</p> <p>4 A. Yes.</p> <p>5 Q. He has a date of 9/15/2006, do you 12:32:31</p> <p>6 see that?</p> <p>7 A. Yes.</p> <p>8 MR. NOVIKOFF: Where is that?</p> <p>9 MR. GOODSTADT: On the right side</p> <p>10 next to Donohoe's signature; I am talking 12:32:42</p> <p>11 about 150.</p> <p>12 MR. NOVIKOFF: I don't see a copy</p> <p>13 on 150.</p> <p>14 MR. GOODSTADT: Let me see your</p> <p>15 copy. 12:32:54</p> <p>16 MR. NOVIKOFF: I see the comment,</p> <p>17 I don't see the signature. Okay, you got</p> <p>18 it.</p> <p>19 Q. You see it is dated 9/15/2006, do</p> <p>20 you see that? 12:33:09</p> <p>21 A. Yes.</p> <p>22 Q. Any reason to believe that that</p> <p>23 was not the date that you spoke with him?</p> <p>24 A. I don't know.</p> <p>25 Q. In fact 9/15/2006 was six months 12:33:15</p>
Page 666	Page 667
<p>1 Hesse</p> <p>2 before you were actually sued; is that</p> <p>3 correct?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form of the question. To what you mean 12:33:25</p> <p>6 by actually sued.</p> <p>7 Q. Sued by Mr. Nofi?</p> <p>8 MR. CONNOLLY: Same objection.</p> <p>9 A. Sued or served with a notice of</p> <p>10 claim, I put them together. 12:33:36</p> <p>11 Q. Did you testify two times, two</p> <p>12 sessions ago that you know the difference</p> <p>13 between a lawsuit and a notice of claim?</p> <p>14 A. I might have put them together as</p> <p>15 far as being served a notice of claim as being 12:33:47</p> <p>16 sued.</p> <p>17 Q. Is a notice of claim publicly</p> <p>18 available information?</p> <p>19 A. I don't know.</p> <p>20 Q. So what did you mean before when 12:33:53</p> <p>21 you said I thought it was relevant because it</p> <p>22 was publicly available information?</p> <p>23 A. Everybody was knowing about it,</p> <p>24 everybody knew about it at that point.</p> <p>25 Q. Who is everybody? 12:34:02</p>	<p>1 Hesse</p> <p>2 A. I don't know, it was on the news,</p> <p>3 it was everywhere.</p> <p>4 Q. It is your testimony that it was</p> <p>5 on the news that by the time that you spoke 12:34:10</p> <p>6 with Mr. Donohoe that you were being sued by</p> <p>7 Joe Nofi; is that your testimony?</p> <p>8 A. I knew it was coming at least.</p> <p>9 Q. The question, sir, is at the time</p> <p>10 that you spoke with Mr. Donohoe was it on the 12:34:23</p> <p>11 news that you were being sued by Joe Nofi?</p> <p>12 A. You know what, I just don't</p> <p>13 recall.</p> <p>14 Q. And here you testified -- here you</p> <p>15 wrote or told him at least that you had 12:34:34</p> <p>16 dismissed Mr. Nofi; is that correct?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 A. No.</p> <p>20 Q. If you look on page 149, he checks 12:34:41</p> <p>21 off dismissed?</p> <p>22 MR. NOVIKOFF: Okay, 149.</p> <p>23 MR. GOODSTADT: Yes.</p> <p>24 MR. NOVIKOFF: I will stipulate</p> <p>25 that on 149 there is a check mark that 12:34:54</p>

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1 Hesse
2 says dismissed.
3 **Q. Do you recall telling him that you**
4 **dismissed Joe Nofi?**
5 A. No. 12:35:00
6 **Q. Then the explanation you see he**
7 **writes, dismissed, applicant presently suing**
8 **the Police Department for wrongful**
9 **termination. Do you see that?**
10 A. I do see that, yes. 12:35:08
11 **Q. Do you recall telling him that you**
12 **dismissed Mr. Nofi and that he is presently**
13 **suing the Police Department for wrongful**
14 **termination?**
15 MR. NOVIKOFF: Objection. 12:35:20
16 Compound.
17 MR. CONNOLLY: Objection.
18 A. That is not what I recall telling
19 him.
20 **Q. What do you recall telling him?** 12:35:24
21 A. I told him that he no longer works
22 for the department, and I will confirm dates
23 of employment, and that he is suing the
24 department for wrongful termination. But that
25 is not the reason why he was terminated, that 12:35:35

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1 Hesse
2 **Q. Did you ever submit anything in**
3 **writing to Collier County with respect to**
4 **Mr. Nofi?**
5 A. I was sent a one-page reference, 12:36:45
6 questionnaire, and I think I only put on there
7 that I confirmed dates of employment.
8 **Q. Did you ever speak with**
9 **Mr. Donohoe other than for that one telephone**
10 **conference that you already testified to?** 12:37:12
11 A. No. I believe that was the only
12 time.
13 **Q. Did you ever speak to anyone else**
14 **from Collier County on behalf of Mr. Nofi?**
15 A. No. 12:37:23
16 **Q. Did you ever speak to anyone in**
17 **the Suffolk County Department of Health with**
18 **respect to Joe Nofi?**
19 A. Yes.
20 **Q. When?** 12:37:29
21 A. I don't know when.
22 **Q. After his termination?**
23 A. Yes.
24 **Q. What did you speak to -- strike**
25 **that.** 12:37:38

1 Hesse
2 is not what I told him.
3 MR. NOVIKOFF: You can add one
4 more minute based upon what I am about to
5 say. But I would think it would be 12:35:45
6 logical that if one is no longer working
7 at the department and one is suing for
8 wrongful termination, that that person
9 has been dismissed or otherwise
10 constructively discharged. 12:35:58
11 You can have one more minute based
12 on the colloquy.
13 MR. GOODSTADT: I don't know why
14 you added the colloquy.
15 MR. NOVIKOFF: I couldn't help 12:36:07
16 myself.
17 **Q. Did you ever speak with Nofi about**
18 **your discussion with Donohoe or anyone at the**
19 **Collier County Sheriff's office?**
20 A. No. 12:36:20
21 **Q. Did you ever let Nofi know that**
22 **someone had reached out to you to request a**
23 **reference on his before?**
24 MR. NOVIKOFF: Objection.
25 A. No. 12:36:32

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1 Hesse
2 **Do you know what year it was that**
3 **you spoke with that person?**
4 A. No.
5 **Q. Who was it that you spoke with?** 12:37:41
6 A. It was a female, I believe -- I
7 don't know if they were in actual health
8 services or cigarette and tobacco section.
9 They wanted me to give a reference over the
10 phone which I didn't do, and I asked them if 12:38:03
11 they want a reference they would have to put
12 something on department letterhead and mail it
13 to me, and that was the extent of the
14 conversation.
15 **Q. Have you ever given a reference** 12:38:17
16 **for any officers other than for the five**
17 **plaintiffs?**
18 A. I may have over the years.
19 **Q. Have you ever given any other**
20 **information other than for dates of** 12:38:25
21 **employment?**
22 A. I may have.
23 **Q. Did you provide Paul Trosko with a**
24 **reference?**
25 A. I may have. 12:38:33

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<p>1 Hesse</p> <p>2 Q. Substantive reference other than</p> <p>3 for dates of employment?</p> <p>4 A. I may have.</p> <p>5 Q. Was it a positive reference? 12:38:38</p> <p>6 A. I would think so, yes.</p> <p>7 Q. Did you ever have any</p> <p>8 communications with anyone in the Suffolk</p> <p>9 County Police Department with respect to Joe</p> <p>10 Nofi? 12:38:49</p> <p>11 A. In the Suffolk County Police</p> <p>12 Department?</p> <p>13 Q. Yes.</p> <p>14 MR. NOVIKOFF: Independent of a</p> <p>15 reference -- 12:38:54</p> <p>16 MR. GOODSTADT: No, in connection</p> <p>17 with a reference.</p> <p>18 A. No.</p> <p>19 Q. How about anyone in the</p> <p>20 Easthampton Bay Constable Police Department? 12:39:02</p> <p>21 A. No.</p> <p>22 Q. How about the Easthampton Marine</p> <p>23 Patrol?</p> <p>24 A. No.</p> <p>25 Q. How about the Suffolk County SPCA? 12:39:11</p>	<p>1 Hesse</p> <p>2 A. I think somebody called in from</p> <p>3 there too, but no reference was given.</p> <p>4 Q. Tell me everything you recall on</p> <p>5 the conversation you had with the Suffolk 12:39:27</p> <p>6 County SPCA with respect to Nofi?</p> <p>7 A. I just vaguely remember something</p> <p>8 about him applying for the -- whatever it is,</p> <p>9 SPCA. But you know what, to tell you the</p> <p>10 truth I don't think anybody called me directly 12:39:42</p> <p>11 in reference to a reference.</p> <p>12 Q. Did you ever provide a reference?</p> <p>13 A. No.</p> <p>14 Q. How about the Riverhead Police</p> <p>15 Department, did you ever speak with anyone 12:39:57</p> <p>16 there with respect to Joe Nofi?</p> <p>17 A. I think somebody did call in.</p> <p>18 Q. Tell me everything that you recall</p> <p>19 about that conversation?</p> <p>20 A. Just the fact that there was a 12:40:09</p> <p>21 call. I think it was the same time with Frank</p> <p>22 Fiorillo, and no reference was given.</p> <p>23 Q. What did you tell the person?</p> <p>24 A. You know, I believe there was a</p> <p>25 message left for me to call the chief back and 12:40:20</p>
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<p>1 Hesse</p> <p>2 when I -- I called back, I didn't get the</p> <p>3 chief and I never got a call back. So I don't</p> <p>4 think anything was ever said or done.</p> <p>5 Q. So you never spoke with anyone? 12:40:31</p> <p>6 A. No.</p> <p>7 MR. CONNOLLY: Who is this?</p> <p>8 Q. Riverhead Police Department.</p> <p>9 A. I don't really recall any</p> <p>10 conversations that took place with them. 12:40:41</p> <p>11 Q. Now about the Northport Police</p> <p>12 Department with respect to Joe Nofi?</p> <p>13 A. No.</p> <p>14 Q. How about the Smithtown Bay</p> <p>15 Constable with respect to Joe Nofi? 12:40:53</p> <p>16 A. No. Never.</p> <p>17 Q. How about with the Shelter Island</p> <p>18 Police with respect to Joe Nofi?</p> <p>19 A. No.</p> <p>20 Q. How about the Amtrak Police with 12:41:00</p> <p>21 respect to Joe Nofi?</p> <p>22 A. No, nothing.</p> <p>23 Q. How about the Quogue Police with</p> <p>24 respect to Joe Nofi?</p> <p>25 A. Nothing. 12:41:11</p>	<p>1 Hesse</p> <p>2 Q. How about the North Hempstead Bay</p> <p>3 Constable with respect to Joe Nofi?</p> <p>4 A. Nothing.</p> <p>5 Q. How about the Babylon Bay 12:41:21</p> <p>6 Constable?</p> <p>7 A. Nothing.</p> <p>8 Q. Any others that you can recall and</p> <p>9 any other potential employers that you can</p> <p>10 recall discussing Joe Nofi with? 12:41:30</p> <p>11 A. No.</p> <p>12 Q. How about Frank Fiorillo, do you</p> <p>13 recall anybody else other than for the ones</p> <p>14 that I asked you about?</p> <p>15 A. No. 12:41:40</p> <p>16 Q. How about with respect to Ed</p> <p>17 Carter, do you recall anybody else other than</p> <p>18 for Decanio?</p> <p>19 A. No.</p> <p>20 Q. How about Kevin Lamm, do you 12:41:48</p> <p>21 recall speaking with anybody on behalf of</p> <p>22 Kevin Lamm's application for a job?</p> <p>23 A. Other than Suffolk County Police</p> <p>24 Department, no.</p> <p>25 Q. How about Tommy Snyder? 12:42:00</p>

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1 Hesse
2 A. Never.
3 **Q. I think we touched upon last time**
4 **your post on the blog. Do you know what I**
5 **mean when I say the blog? 12:42:21**
6 A. Yes.
7 **Q. Subsequently you provided**
8 **information in response to interrogatories**
9 **identifying this post that you made; is that**
10 **correct? 12:42:30**
11 A. Yes.
12 **Q. Is that all the posts that you**
13 **made, the ones that were in response to the**
14 **interrogatories?**
15 A. Yes. 12:42:36
16 MR. NOVIKOFF: How much time is
17 left.
18 THE VIDEOGRAPHER: Eight minutes.
19 MR. NOVIKOFF: Have you hit the
20 250 yet. 12:42:53
21 MR. GOODSTADT: I don't know.
22 MR. NOVIKOFF: Off the record.
23 THE VIDEOGRAPHER: The time is
24 12:44, we are off the record.
25 (Recess taken.) 12:43:09

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1 Hesse
2 recollection of blog entries.
3 MR. GOODSTADT: Okay.
4 MR. NOVIKOFF: Its up to Andrew if
5 he wants to ask that question. 12:44:26
6 MR. GOODSTADT: I am going to
7 leave his responses where they are and go
8 through what I need to on redirect if
9 necessary.
10 THE VIDEOGRAPHER: The time is 12:44:38
11 12:46, we are off the record.
12 (Time noted 12:46 p.m.)
13 (Lunch recess taken.)
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1 Hesse
2 THE VIDEOGRAPHER: The time is
3 12:45, we are on the record.
4 **Q. Mr. Hesse, you have posted on the**
5 **blog from your home computer; is that correct? 12:43:36**
6 A. Yes.
7 **Q. Do you know if anyone else has**
8 **posted on the blog from your home computer**
9 **other than for you?**
10 A. Not that I am aware of. 12:43:44
11 **Q. And the same thing about the Ocean**
12 **Beach Police Department computer, you posted**
13 **there on the blog?**
14 A. I may have, yes.
15 **Q. Are you aware of anybody else 12:43:53**
16 **posting on the blog from the Ocean Beach**
17 **Police Department computer other than for**
18 **yourself?**
19 A. Not yet.
20 **Q. What do you mean by not yet? 12:44:02**
21 A. I am assuming I will find out.
22 MR. GOODSTADT: I have nothing
23 further at this time.
24 MR. CONNOLLY: You can ask one
25 more, his responses are based upon his 12:44:13

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1 Hesse
2 AFTERNOON SESSION
3 (Time noted: 1:38 p.m.)
4 GEORGE HESSE, resumed and
5 testified as follows:
6 EXAMINATION BY (Cont'd.)
7 MR. NOVIKOFF:
8 THE VIDEOGRAPHER: The time is
9 1:38, we are on the record.
10 **Q. Good afternoon, Mr. Hesse, how are 13:36:34**
11 **you?**
12 A. Good.
13 **Q. As you probably are aware I**
14 **represent all the Village defendants besides**
15 **you. As you are probably aware I represent 13:36:43**
16 **all the Village defendants except you, you are**
17 **aware of that?**
18 A. Yes.
19 **Q. Have you and I ever had**
20 **discussions about the substance or the merits 13:37:00**
21 **or lack thereof of the action that brings us**
22 **here today?**
23 A. No.
24 **Q. Have we ever exchanged written**
25 **communications? 13:37:08**

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1 Hesse
2 A. No.
3 Q. I am going to ask you a series of
4 questions, I want to start off with asking you
5 some questions about the blog, but since Mr. 13:37:19
6 Goodstadt didn't ask you about any specific
7 blog entries, I am not going to. But let me
8 just ask you a few questions about the blog.
9 To the extent that you entered,
10 you made blog entries subsequent to the April 13:37:37
11 2nd meeting, and you understand what I am
12 talking about by the April 2nd meeting?
13 A. Yes.
14 Q. April 2, 2006?
15 A. Yes. 13:37:51
16 Q. Let me rephrase the question.
17 To the extent that you made blog
18 entries in the Schwartz Report subsequent to
19 April 2, 2006, were you doing that as part of
20 your official duties as Acting Chief of 13:38:03
21 Police?
22 A. No.
23 Q. With regard to any entries in the
24 Schwartz Report or any other blog concerning
25 Ocean Beach subsequent to April 2, 2006 were 13:38:14

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1 Hesse
2 A. I was not aware of anybody that
3 would know, no.
4 Q. You certainly didn't tell anyone,
5 did you? 13:39:33
6 A. No.
7 Q. Well, since there is an objection
8 let me rephrase the question.
9 Did you tell any trustee between
10 April 2nd and the date that Mayor Loeffler 13:39:40
11 started as mayor that you were blogging on the
12 Schwartz Report concerning Ocean Beach?
13 A. No.
14 Q. Prior to receiving the -- prior to
15 being served with the complaint, the Federal 13:39:57
16 court complaint in this matter did you ever
17 advise mayor -- former Mayor Rogers that you
18 were blogging on the Schwartz Report
19 concerning Ocean Beach?
20 A. No. 13:40:10
21 Q. Did you ever advise Mayor Loeffler
22 prior to serving -- getting served with the
23 summons and complaint in the action that you
24 were blogging on the Schwartz Report
25 concerning Ocean Beach? 13:40:26

1 Hesse
2 you doing it in any capacity associated with
3 your position as Acting Chief of Police?
4 MR. GOODSTADT: Objection.
5 A. No. 13:38:25
6 Q. Did you advise Mayor Rogers while
7 she was still mayor but subsequent to April 2,
8 2006 that you were entering blog entries?
9 A. No.
10 Q. Did you advise Trustee Loeffler 13:38:37
11 subsequent to April 2nd and while he was still
12 a trustee member that you were entering blog
13 entries on the Schwartz Report concerning
14 Ocean Beach issues?
15 A. No. 13:38:55
16 Q. To your knowledge was anyone, to
17 your knowledge was any trustee ever aware
18 between April 2nd and the time that Mayor
19 Loeffler was -- withdrawn.
20 Between April 2nd and the time 13:39:12
21 that Mayor Loeffler was started as mayor in
22 the summer of 2006 are you aware of any
23 trustee that was aware that you were blogging
24 on the Schwartz Report concerning Ocean Beach?
25 MR. GOODSTADT: Objection. 13:39:28

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1 Hesse
2 A. No.
3 Q. Did you advise any trustee member
4 prior to the time that you were served with
5 the summons and complaint that you were 13:40:31
6 blogging on the Schwartz Report concerning
7 Ocean Beach?
8 A. No.
9 Q. Let's look at the exhibit that Mr.
10 Goodstadt showed you, Exhibit 28, Deposition 13:41:09
11 Exhibit 28, CCSO 147 through CCSO 150.
12 Specifically let's look at 149 and 150?
13 A. Yes.
14 Q. Did you draft this document?
15 A. No. 13:41:34
16 Q. Prior to today have you seen this
17 document?
18 A. No.
19 Q. So let's be more specific, the
20 line: Rate the applicant in the following 13:41:44
21 areas. You didn't draw that line; right?
22 A. No.
23 Q. Now, Mr. Goodstadt asked you a
24 question as to when you did this, when you
25 spoke -- when you spoke to the investigator, 13:42:02

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1 Hesse
2 when you filled out whatever form you
3 indicated that you filled out. Do you recall
4 those questions?
5 A. Yes. 13:42:09
6 Q. Now, the date of this document,
7 150, is 9/15/2006. Would you agree with me
8 that given the fact that the Federal lawsuit
9 was not filed until March 2007, that you had
10 your conversation with Collier County prior to 13:42:30
11 the filing of the Federal lawsuit?
12 A. Yes.
13 Q. And if I represented to you that
14 the date of the notice of claim was on or
15 about June 30, 2006, would you agree with me 13:42:43
16 that based upon that representation you would
17 have had a conversation with Collier County
18 after becoming aware of the notice of claim?
19 A. Yes.
20 Q. In fact the notice of claim was in 13:42:56
21 part a claim that the five plaintiffs were
22 unlawfully terminated; correct?
23 MR. GOODSTADT: Objection.
24 A. Yes.
25 Q. What was your -- what is your 13:43:04

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1 Hesse
2 A. Not that I am aware of.
3 MR. GOODSTADT: Objection.
4 Q. Now, let's look at page 150?
5 A. Uh-hum. 13:44:40
6 Q. Whoever wrote this document states
7 under the line: Please provide any additional
8 information that you feel is important.
9 And they write as follows: Deputy
10 Chief Hesse states quote, his Police 13:44:52
11 Department is being sued by the applicant for
12 quote wrongful (job) termination close quote.
13 Do you see that?
14 A. Yes.
15 Q. Did you state to whomever you 13:45:07
16 spoke to at Collier County that the Police
17 Department was being sued?
18 A. Yes.
19 Q. Did you state to the investigator
20 or whomever you spoke to at Collier County 13:45:17
21 that Mr. Nofi was suing the department for
22 wrongful termination?
23 A. Yes.
24 Q. Whoever wrote this document then
25 goes on to say: Chief Hesse states that he 13:45:28

1 Hesse
2 knowledge as you sit here today as to what
3 claims if any any of the plaintiffs were
4 making in their respective notice of claims?
5 A. It was my belief that it was for 13:43:14
6 some kind of illegal termination of sorts, and
7 then many other accusations that just didn't
8 make sense.
9 Q. A notice of claim is filed with
10 the village; correct? 13:43:36
11 A. Yes.
12 Q. And a notice of claim is filed
13 specifically with the clerk of the village; is
14 that correct?
15 MR. GOODSTADT: Objection. 13:43:43
16 A. Yes.
17 Q. To your knowledge is a notice of
18 claim a document that an individual could file
19 a FOIA request to ascertain?
20 MR. GOODSTADT: Objection. 13:43:56
21 MR. CONNOLLY: Objection.
22 A. You know, I believe they can.
23 Q. Are you aware of any law that
24 requires a notice of claim be kept
25 confidential and hidden from the public? 13:44:08

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1 Hesse
2 cannot comment on the applicant's reason he
3 was let go or his job history at the PD due to
4 the ongoing lawsuit.
5 Do you see that? 13:45:40
6 A. Yes.
7 Q. Now, did you tell whomever you
8 spoke to at Collier County that you can't
9 comment on the applicant's reasons as to why
10 he was let go? 13:45:51
11 A. Yes.
12 Q. Did you tell whomever you spoke to
13 at Collier County that you can't comment on
14 the applicant's job history at the Police
15 Department? 13:46:00
16 A. Yes.
17 Q. And did you tell whomever you
18 spoke to at Collier County that you could not
19 discuss the reasons Mr. Nofi was let go or his
20 job history due to the ongoing lawsuit? 13:46:12
21 A. Yes.
22 Q. Now, did you speak with any lawyer
23 prior to giving this information to Collier
24 County as to what you could say with regard to
25 a reference request? 13:46:28

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1 Hesse
2 A. No.
3 **Q. Did you speak with Mayor Loeffler?**
4 A. No.
5 **Q. Did you speak with former Mayor 13:46:33**
6 **Rogers?**
7 A. No.
8 **Q. Did you speak with any trustee?**
9 A. No.
10 **Q. Now, you indicated in response to 13:46:38**
11 **Mr. Goodstadt's question that in your opinion**
12 **you gave neutral references; is that correct?**
13 A. Uh-hum.
14 MR. GOODSTADT: Objection. His
15 testimony is what it is. 13:46:50
16 MR. NOVIKOFF: Okay.
17 **Q. Let me state this. In your**
18 **opinion the references that you gave with**
19 **regard -- putting aside Mr. Carter for the**
20 **time being, the references that you gave with 13:46:59**
21 **regard to the other four plaintiffs, to the**
22 **extent that you gave any references -- you**
23 **know, withdrawn, reference is a bad word.**
24 **To the extent that you had any**
25 **communications with regard to any prospective 13:47:11**

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1 Hesse
2 **testimony, I am not going to try to repeat it**
3 **here, to the extent that you gave any**
4 **references at all with regard to Mr. Nofi**
5 **subsequent to April 2, 2006, did you give that 13:48:19**
6 **type of a negative reference?**
7 A. No.
8 MR. CONNOLLY: Objection.
9 **Q. Did you give any type of negative**
10 **reference? 13:48:31**
11 A. No.
12 **Q. Same question with regard to Mr.**
13 **Fiorillo?**
14 MR. GOODSTADT: Objection.
15 A. No. 13:48:37
16 **Q. With regard to Mr. Snyder, to the**
17 **extent that you gave any, made any**
18 **communications with any prospective employers**
19 **of Mr. Snyder after April 2, 2006, if you were**
20 **going to give a negative reference what would 13:48:51**
21 **you have said?**
22 MR. GOODSTADT: Objection.
23 A. I would have said that he had
24 somewhat of a poor attitude. His work
25 performance was slipping. That tours that he 13:49:01

1 Hesse
2 **employers of the plaintiffs with the exception**
3 **of Mr. Carter, would you characterize your**
4 **comments as being neutral?**
5 MR. GOODSTADT: Objection. 13:47:22
6 A. Yes.
7 **Q. Sir, if in fact you wanted to give**
8 **a negative reference with regard to for**
9 **example to Frank Fiorillo, what would you have**
10 **said to a prospective employer? 13:47:31**
11 MR. GOODSTADT: Objection.
12 A. I would have said that he was
13 insubordinate and I would have gave him -- I
14 probably would have given him an example or
15 two. 13:47:44
16 **Q. The same thing with regard to Mr.**
17 **Nofi, if you were to give a negative reference**
18 **with regard to Mr. Nofi what would you have**
19 **said?**
20 MR. GOODSTADT: Objection. 13:47:55
21 A. I would have said that, like I
22 stated earlier, he had poor work performance,
23 poor appearance and so on, along those lines.
24 **Q. Let's stay with Mr. Nofi for a**
25 **minute. To the extent and I don't recall your 13:48:09**

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1 Hesse
2 was scheduled for he was not showing up for.
3 **Q. Did you give that type of -- did**
4 **you communicate those opinions to any**
5 **prospective employer to the best of your 13:49:13**
6 **recollection?**
7 A. No.
8 **Q. How about with regard to Mr. Lamm,**
9 **to the extent that you had any communications**
10 **with a prospective employer after April 2, 13:49:21**
11 **2006 and you were inclined to give a negative**
12 **reference, what would that negative have been?**
13 MR. GOODSTADT: Objection.
14 A. I would have said that he had a
15 poor attitude, shows no discretion, generally 13:49:36
16 angry, and insubordinate.
17 **Q. Did you make -- did you**
18 **communicate those opinions to any prospective**
19 **employer that you were aware of?**
20 A. No. 13:49:54
21 **Q. So let's go back to what Mr.**
22 **Goodstadt brought out from you during his**
23 **testimony. You acknowledged, and correct me**
24 **if I am wrong, that at least that on those**
25 **tapes -- withdrawn. 13:50:06**

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<p>1 Hesse</p> <p>2 You acknowledged on those tapes</p> <p>3 that Mr. Goodstadt played for you, for us in</p> <p>4 the morning, that you did make statements</p> <p>5 concerning Lamm, Fiorillo and Nofi's law 13:50:17</p> <p>6 enforcement careers; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And in fact in sum or substance</p> <p>9 you had said to whoever you were speaking to</p> <p>10 that those -- that their law enforcement 13:50:31</p> <p>11 careers were over; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. What did you mean by that as you</p> <p>14 heard it on the tape?</p> <p>15 MR. GOODSTADT: Objection. 13:50:40</p> <p>16 A. I was angry.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 Q. I understand.</p> <p>19 A. I was angry at the things, at the</p> <p>20 acquisitions that they were making. But as 13:50:47</p> <p>21 far as their law enforcement careers are over,</p> <p>22 they are just going to remain where they are</p> <p>23 and that is what I hoped. And really that was</p> <p>24 it. There was no threats made. I didn't do</p> <p>25 anything that would hurt them. I never said 13:51:00</p>	<p>1 Hesse</p> <p>2 anything about them to any prospective</p> <p>3 employer. So, you know, I was just angry at</p> <p>4 that moment.</p> <p>5 MR. GOODSTADT: Do we have an 13:51:12</p> <p>6 agreement that I don't have to move to</p> <p>7 strike anything?</p> <p>8 MR. NOVIKOFF: Yes, until such</p> <p>9 time as you need to.</p> <p>10 MR. GOODSTADT: Well it is 13:51:21</p> <p>11 preserved. I don't have to do it today.</p> <p>12 MR. NOVIKOFF: Yes.</p> <p>13 Q. To the extent Mr. Goodstadt</p> <p>14 believes that you were threatening to do</p> <p>15 something in those tapes with regard to their 13:51:31</p> <p>16 law enforcement careers, did you take any</p> <p>17 action in furtherance of that?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 MR. GOODSTADT: Objection.</p> <p>20 A. No. 13:51:43</p> <p>21 Q. Was it your intent on those tapes</p> <p>22 to communicate that you were going to</p> <p>23 affirmatively take any action to harm their</p> <p>24 careers?</p> <p>25 A. No. 13:51:55</p>
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<p>1 Hesse</p> <p>2 Q. Now, Mr. Goodstadt inquired with</p> <p>3 you with regard to various eyewitness</p> <p>4 statements that had been filed with the</p> <p>5 village concerning the Halloween incident, do 13:52:42</p> <p>6 you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. I think he said, he asked you did</p> <p>9 you think it was strange that no one who put</p> <p>10 in an eyewitness statement made reference to a 13:52:53</p> <p>11 pool cue; correct?</p> <p>12 A. Yes.</p> <p>13 Q. I don't recall what your answer is</p> <p>14 and frankly for purposes of my question I</p> <p>15 don't care what your answer was. Let's look 13:53:03</p> <p>16 at the Exhibit 14?</p> <p>17 MR. GOODSTADT: Which is Exhibit</p> <p>18 14?</p> <p>19 Q. This is the memo from Steve Jaeger</p> <p>20 to Ed Paradiso? 13:53:34</p> <p>21 MR. CONNOLLY: You are going to</p> <p>22 have to give him a copy.</p> <p>23 MR. NOVIKOFF: I thought the</p> <p>24 reporter would have brought it. So we</p> <p>25 are continuing. 13:53:54</p>	<p>1 Hesse</p> <p>2 MR. GOODSTADT: I don't know.</p> <p>3 MR. NOVIKOFF: Do you have a clean</p> <p>4 copy?</p> <p>5 MR. CONNOLLY: It has my 13:54:02</p> <p>6 handwriting on it.</p> <p>7 MR. NOVIKOFF: It says Exhibit 14.</p> <p>8 Can you show Mr. Goodstadt, I just --</p> <p>9 MR. GOODSTADT: That is fine.</p> <p>10 Q. I am going to show you what I 13:54:17</p> <p>11 represent to be marked as Exhibit 14, I will</p> <p>12 note for the record that Mr. -- your counsel's</p> <p>13 handwriting is on the bottom of that page</p> <p>14 indicating that it is Exhibit 14.</p> <p>15 Now, would you characterize this 13:54:29</p> <p>16 as an eyewitness statement, or would you</p> <p>17 characterize this as a complaint to the chief</p> <p>18 concerning an action taken against Gary</p> <p>19 Bosetti by the chief?</p> <p>20 A. I took it as a complaint filed to 13:54:43</p> <p>21 the chief about the actions that the chief</p> <p>22 took against Gary Bosetti.</p> <p>23 Q. Does Mr. Jaeger in this letter</p> <p>24 indicate at all that he was a witness to the</p> <p>25 entirety of the altercation involving those 13:54:56</p>

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1 Hesse
2 three individuals and Mr. Gary Bosetti?
3 MR. GOODSTADT: Objection.
4 A. No.
5 Q. Does he indicate anywhere in this 13:55:04
6 letter that he was an eyewitness to anything
7 involving Gary Bosetti fighting these -- any
8 individual?
9 MR. GOODSTADT: Objection.
10 A. No. 13:55:15
11 Q. Now let's look at Exhibit 16?
12 MR. CONNOLLY: Which we are going
13 to have the same problem.
14 MR. NOVIKOFF: Yes.
15 Q. It is the Doug Wyckoff, 3165 and 13:55:35
16 3166.
17 MR. GOODSTADT: Looks good to me.
18 Q. I am going to ask you to read,
19 same representation that what I am showing you
20 is 3165 and 3166. I represent that it was 13:56:04
21 marked as Exhibit 16 at your deposition
22 earlier and your counsel is handing you a copy
23 of his.
24 MR. CONNOLLY: Which again notes
25 that it is Exhibit 16 in my handwriting? 13:56:15

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1 Hesse
2 Q. Would you agree then that had he
3 been taking one of the individuals out the
4 front door while the altercation was still
5 going on involving Gary Bosetti that he might 13:58:07
6 not have seen Mr. Bosetti using a pool cue?
7 MR. GOODSTADT: Objection.
8 A. Yes.
9 Q. Did Mr. Bosetti ever deny ever
10 using a pool cue? 13:58:21
11 A. No.
12 Q. And in fact if I recall correctly
13 in his witness statement he acknowledged
14 specifically that he hit Mr. Schalik, or he
15 hit somebody with a pool cue; right? 13:58:28
16 A. Yes.
17 Q. Now, let's look at Exhibit 15, and
18 if Mr. Connolly doesn't mind I would like to
19 have him show to the extent that there is no
20 extraneous handwriting other than the exhibit 13:58:44
21 number.
22 Again I represent that Exhibit 15,
23 what I am handing you is document 3181 through
24 3182?
25 A. Correct. 13:59:04

1 Hesse
2 Q. Now I am just going to ask you to
3 read Mr. Wyckoff's statement to yourself, on
4 the front and then it continues on the back.
5 Then I am going to ask you a series of 13:56:24
6 questions about that.
7 A. Okay.
8 Q. Did Mr. Wyckoff indicate in his
9 statement that he was a witness from the
10 entire altercation involving Gary Bosetti from 13:57:22
11 the moment it started to the moment it ended?
12 MR. GOODSTADT: Objection.
13 A. With Gary himself -- not entirely,
14 no.
15 Q. In fact am I correct in my reading 13:57:34
16 of this that at some point in time Mr. Wyckoff
17 said that being that he was a bouncer for many
18 years he went and grabbed one of the alleged
19 victims and forced him out the front door;
20 yes? 13:57:52
21 A. Yes.
22 Q. So I am correct in reading, that
23 is what I read?
24 A. Yes.
25 MR. GOODSTADT: Objection. 13:57:59

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1 Hesse
2 Q. And it was marked as Exhibit 15 by
3 Mr. Goodstadt when he was questioning you. I
4 am going to ask you to read this one and then
5 tell me when you are done? 13:59:15
6 A. Okay.
7 MR. CONNOLLY: Just let me see it
8 for a second. Okay.
9 Q. Now, I have showed you Exhibit 15,
10 and whose signature -- whose eyewitness 14:01:20
11 statement is that; that is Jeannie Jaeger; is
12 that correct?
13 A. Yes.
14 Q. Does Ms. Jaeger in this eyewitness
15 statement or this statement indicate that at 14:01:29
16 some point in time she went into the woman's
17 bathroom after the altercation began?
18 MR. GOODSTADT: Objection.
19 A. Yes.
20 Q. Why don't you tell the court what 14:01:41
21 Ms. Jaeger is saying with regard to when she
22 went back into the bathroom?
23 A. You want me to read it?
24 Q. Yes, please.
25 MR. GOODSTADT: Objection. 14:01:50

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<p>1 Hesse</p> <p>2 A. "The man then lunged towards Gary</p> <p>3 and fell into the corner with the parking</p> <p>4 meter, taking the girl dressed as a cop with</p> <p>5 him. They were both down and not moving when 14:02:08</p> <p>6 I grabbed Elyse and ducked into the ladies</p> <p>7 room."</p> <p>8 Q. Would you agree with me that if</p> <p>9 Ms. Jaeger was in the ladies room at the time</p> <p>10 that Mr. Bosetti had used the pool cue and the 14:02:23</p> <p>11 bathroom door was closed, she could not have</p> <p>12 seen Mr. Bosetti use the pool cue?</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. Yes.</p> <p>15 Q. Would you agree with me that if 14:02:33</p> <p>16 she put in this statement that she put, that</p> <p>17 she saw Mr. Bosetti use a pool cue when in</p> <p>18 fact she didn't, she would be committing a</p> <p>19 perjurious act?</p> <p>20 A. Yes, she would be lying, yes. 14:02:45</p> <p>21 MR. GOODSTADT: Objection.</p> <p>22 Q. Does it seem strange to you that</p> <p>23 based upon the fact that Ms. Jaeger went into</p> <p>24 the ladies room at some point in time during</p> <p>25 the altercation and she didn't put down in her 14:03:01</p>	<p>1 Hesse</p> <p>2 statement that she saw Mr. Bosetti use a pool</p> <p>3 cue?</p> <p>4 A. No, I don't find it strange.</p> <p>5 Q. The same thing with Mr. Wyckoff, 14:03:12</p> <p>6 given the fact that Mr. Wyckoff indicated that</p> <p>7 at some point in time in the statement he took</p> <p>8 one of the alleged victims and forced him out</p> <p>9 of the bar, does it seem strange to you that</p> <p>10 Mr. Wyckoff didn't see Mr. Bosetti use a pool 14:03:27</p> <p>11 cue?</p> <p>12 A. No, I don't find it strange.</p> <p>13 Q. In fact if Mr. Wyckoff said he saw</p> <p>14 Mr. Bosetti use a pool cue when in fact he</p> <p>15 didn't, Mr. Wyckoff would be committing a 14:03:39</p> <p>16 perjurious act; is that correct?</p> <p>17 A. Yes, he would be lying.</p> <p>18 Q. Let's look at Mr. Steven Jaeger.</p> <p>19 Now if Mr. Steve Jaeger indicated in his</p> <p>20 letter of complaint to Chief Paradiso that he 14:03:51</p> <p>21 knew that Gary Bosetti used a pool cue when in</p> <p>22 fact he never was an eyewitness to that, he</p> <p>23 would be lying as well?</p> <p>24 A. Correct.</p> <p>25 Q. So to the extent that Mr. 14:04:06</p>
Page 702	Page 703
<p>1 Hesse</p> <p>2 Goodstadt showed you this letter of complaint</p> <p>3 as a purported eyewitness statement, does it</p> <p>4 seem strange to you now -- does it seem</p> <p>5 strange to you that Mr. Budd Jaeger made no 14:04:18</p> <p>6 reference to Gary Bosetti using a pool cue?</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 A. No. At this time, no.</p> <p>9 Q. Let's look at Exhibit 19, and this</p> <p>10 one I think he showed you today? 14:04:41</p> <p>11 A. Yes, it is somewhere in here.</p> <p>12 Q. Now, Exhibit 19 is a statement of</p> <p>13 Elyse Miller; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. At least it purports to be a 14:04:57</p> <p>16 statement of Elyse Miller?</p> <p>17 A. Yes.</p> <p>18 Q. Mr. Goodstadt asked you a series</p> <p>19 of questions about that, do you recall?</p> <p>20 A. Yes. 14:05:03</p> <p>21 Q. Let's go to the third page of this</p> <p>22 document, 3171?</p> <p>23 A. Okay.</p> <p>24 Q. Actually it starts, the part I</p> <p>25 want to focus on starts on 3170? 14:05:17</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. I am going to read it into the</p> <p>4 record: "At that point the guy in the orange</p> <p>5 jump suit reached for Jean's throat, he was 14:05:28</p> <p>6 going to choke her. Jean was trapped. The</p> <p>7 wall to the men's room was behind her and</p> <p>8 there was no place to move in that little</p> <p>9 bathroom waiting area. I started to grab for</p> <p>10 his wrist trying to get him off, but 14:05:45</p> <p>11 thankfully Gary appeared and pushed him to the</p> <p>12 ground and away from Jean. The guy fell down</p> <p>13 bringing Gary and the girl with him. Suddenly</p> <p>14 another guy appeared, I believe he had on a</p> <p>15 gray shirt. Gary told the guy that he was a 14:06:01</p> <p>16 cop, telling him to step back, get out of the</p> <p>17 way and to stay out of it. But the guy said</p> <p>18 he didn't care who Gary was and he went to</p> <p>19 kick Gary in the head. Gary blocked the kick</p> <p>20 and Jean and I were pushed further back in the 14:06:16</p> <p>21 tight space now trapped. Jean pulled me into</p> <p>22 the ladies room for safety."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Let's assume, I wasn't there, you 14:06:26</p>

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1 Hesse
2 were not there, no one in this room was there.
3 The only people -- well, actually none of the
4 police officers were there.
5 Let's assume for the purpose of 14:06:35
6 this question that Gary Bosetti used the pool
7 cue while Elyse Miller was in the bathroom,
8 and let's assume that the door was closed.
9 Could Elyse Miller have seen Gary Bosetti use
10 the pool cue while she was in the bathroom 14:06:52
11 with the door closed?
12 MR. GOODSTADT: Objection.
13 A. No.
14 Q. Let's assume for the purpose of my
15 question that in fact Gary Bosetti used the 14:06:59
16 pool cue while Elyse Miller was in the
17 bathroom with the door closed. Would it be
18 strange to you that Elyse Miller didn't put
19 down in her statement that Gary Bosetti had
20 used a pool cue? 14:07:13
21 A. No.
22 Q. In fact if Gary Bosetti had used
23 a pool cue -- I'm sorry, and in fact had Elyse
24 Miller put down in her statement that Gary
25 Bosetti had used a pool cue, when in fact she 14:07:22

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1 Hesse
2 neck brace on?
3 A. Yes.
4 Q. Is that standard procedure for a
5 victim that you believe have injuries when you 14:08:23
6 want to move them to put them in a neck brace?
7 MR. GOODSTADT: Objection.
8 A. No.
9 Q. Do you think he went to the bar
10 with a neck brace? 14:08:33
11 A. No.
12 Q. So at some point in time after he
13 left the bar that night somebody put him in a
14 neck brace?
15 A. At some point, yes. 14:08:40
16 Q. Do you know who did?
17 A. I believe one of the EMTs did.
18 Q. Let's go back to Exhibit 20, Ian
19 Levine, and read Mr. Levine's statement to
20 yourself and then tell me when you are done? 14:08:52
21 A. I need a magnifying glass.
22 Okay.
23 Q. Now, Mr. Levine makes no mention
24 of the fact that Gary Bosetti used a pool cue
25 at any time? 14:10:46

1 Hesse
2 didn't see him use a pool cue, that would have
3 been a perjurious statement; correct?
4 A. Yes. She would have been lying.
5 MR. GOODSTADT: You don't want to 14:07:34
6 discuss the part when she opens the door
7 and discusses the rest of it?
8 MR. NOVIKOFF: No. You may.
9 Q. Now let's look at Exhibit 20,
10 because you know these things happen in the 14:07:51
11 blink of an eye.
12 MR. GOODSTADT: Recollections are
13 sketchy, right, they become snapshots.
14 MR. NOVIKOFF: They do, especially
15 if there is alcohol involved. 14:08:02
16 MR. GOODSTADT: Read the statement
17 yourself.
18 Q. You know what, before we get to
19 that, you are looking at an exhibit with one
20 of the alleged victims that Mr. Goodstadt 14:08:12
21 showed you; right?
22 A. Yes.
23 Q. What exhibit number was that?
24 A. 17.
25 Q. Is there a picture there with a 14:08:17

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1 Hesse
2 A. No, he did not.
3 Q. Did Mr. Levine indicate in this
4 thing that he saw the entirety of the
5 altercation involving Mr. Gary Bosetti? 14:10:52
6 MR. GOODSTADT: Objection.
7 A. No.
8 Q. In fact isn't it true that at
9 least in this statement Mr. Levine said at
10 some point in time after the altercation 14:11:06
11 started he used his cell phone to make a call
12 to the police?
13 MR. GOODSTADT: Objection.
14 A. Yes, he did.
15 MR. NOVIKOFF: Leading? 14:11:15
16 MR. GOODSTADT: The document
17 speaks for itself.
18 MR. CONNOLLY: And going forward
19 so we don't have any talk overs and drive
20 the reporter crazy, wait a second or two 14:11:22
21 to allow for any objections.
22 Q. So now hypothetically, sir, if Mr.
23 Levine took his eyes away from the altercation
24 while he went to get his cell phone, dial the
25 number for the police, talked to whomever he 14:11:37

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1 Hesse
2 talked to on the police, hang up the cell
3 phone and put the cell phone back wherever it
4 was, had he taken his eyes off the altercation
5 he may not have seen Mr. Bosetti use a pool 14:11:58
6 cue; correct?
7 A. That is correct.
8 MR. GOODSTADT: Objection.
9 Q. Hypothetically?
10 A. Yes. 14:11:58
11 Q. And you would agree with me then
12 that if Mr. Levine, had he not seen Gary
13 Bosetti use a pool cue, put in the statement
14 that he in fact did use a pool cue, that would
15 have been a perjurious statement? 14:12:10
16 A. Yes.
17 Q. Now based upon your review of Mr.
18 Levine's statement and the fact that he used a
19 cell phone to call the police at some point in
20 time after the altercation started, does it 14:12:21
21 seem strange that he didn't see Gary Bosetti
22 use a pool cue?
23 A. No.
24 Q. Now, a whole lot of questions
25 about a cover up involving the Halloween 14:12:36

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1 Hesse
2 A. Absolutely not.
3 Q. To your knowledge did any trustee
4 member instruct you to cover up anything?
5 A. No. 14:13:19
6 Q. To your knowledge did Mayor Rogers
7 instruct you to cover up anything involving
8 the Halloween incident?
9 A. No.
10 Q. To your knowledge was the issue of 14:13:25
11 covering up anything involving the Halloween
12 incident ever mentioned between you and any
13 person higher in authority than you?
14 A. No.
15 MR. GOODSTADT: Objection. 14:13:44
16 Q. Did the issue of -- withdrawn.
17 At some point in time there were
18 arrests made with regard to the Halloween
19 incident; is that correct?
20 A. Yes. 14:13:57
21 Q. Was Gary Bosetti arrested?
22 A. No.
23 Q. Who was arrested?
24 A. Brian Van Koot and Christopher
25 Schalik. 14:14:05

1 Hesse
2 incident. Do you recall questions about that?
3 A. Yes.
4 Q. Have you read the complaint in
5 this matter? 14:12:42
6 A. Yes.
7 Q. There is a whole lot of -- in fact
8 there is about 26 allegations I think about
9 you covering up or the Ocean Beach Police
10 Department covering up something with regard 14:12:53
11 to the Halloween incident; correct?
12 A. Yes.
13 Q. And you had rumors that some of
14 the plaintiffs here thought that there was a
15 cover up; correct? 14:13:01
16 A. Yes.
17 Q. Let me ask you these questions,
18 did you cover up anything involving the
19 Halloween incident?
20 A. Absolutely not. 14:13:06
21 Q. Did Chief Paradiso cover up
22 anything?
23 A. Absolutely not.
24 Q. To your knowledge did Mr. Cherry
25 cover up anything? 14:13:13

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1 Hesse
2 Q. And what was Brian Van Koot
3 arrested for?
4 A. Harassment on Jean Jaeger for
5 choking her, and assault third on Gary 14:14:11
6 Bosetti.
7 Q. What was the -- who was the other
8 individual?
9 A. Christopher Schalik.
10 Q. So we have Van Koot and Schalik? 14:14:18
11 A. Yes.
12 Q. What was Mr. Schalik arrested for?
13 A. Assault on Gary Bosetti.
14 Q. Now, an arrest is a serious
15 matter; correct? 14:14:35
16 MR. GOODSTADT: Objection.
17 A. Yes.
18 Q. Just could you tell I guess the
19 jury may one day, hopefully not, but maybe one
20 day see this videotape with your deposition, 14:14:43
21 could you tell the jury what takes place after
22 someone is arrested?
23 MR. CONNOLLY: Objection.
24 MR. GOODSTADT: Objection.
25 Q. In terms of the process and the 14:14:58

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1 Hesse
2 **procedure?**
3 A. There is a process.
4 **Q. Okay.**
5 A. Information that we have to get 14:15:01
6 from the defendant, pedigree information, past
7 arrest information. There are fingerprints
8 taken, pictures taken, and then subsequently
9 charges are drawn up and then therefore they
10 are arraigned on those charges. 14:15:16
11 **Q. Who draws up the charges?**
12 A. We do.
13 **Q. When you say they are arraigned,**
14 **what do you mean?**
15 A. They go before the judge and plead 14:15:25
16 guilty or not guilty.
17 **Q. Does the Village of Ocean Beach**
18 **have their own type of District Attorney's**
19 **office?**
20 A. We have our own village court. 14:15:37
21 **Q. Okay.**
22 A. And we have district attorneys
23 appointed by the District Attorney's office of
24 Suffolk County to prosecute.
25 **Q. Now is it up to the -- based upon 14:15:46**

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1 Hesse
2 **enforcement entity or District Attorney's**
3 **office?**
4 A. Yes.
5 MR. BAPTISTE: Objection. General 14:16:51
6 objection.
7 MR. NOVIKOFF: To form?
8 MR. BAPTISTE: Yes.
9 **Q. Let me try to narrow it down a**
10 **little bit. Prior to arresting Van Koot and 14:17:06**
11 **Schalik did you have any communications with**
12 **the Suffolk County District Attorney's office**
13 **concerning arresting either of these two**
14 **individuals?**
15 A. Yes. 14:17:20
16 **Q. Can you describe for the jury and**
17 **the court what communications you had**
18 **concerning arresting Van Koot and Schalik**
19 **prior to actually arresting them?**
20 A. I told them what I had. I said I 14:17:32
21 had a lot of documents I would like to fax
22 over for review to make sure that this is
23 going correctly. I faxed them over. I spoke
24 to -- it was not Beth Grosso who was appointed
25 to us -- Mallory Sullivan was the prosecutor I 14:17:52

1 Hesse
2 **your experience at Ocean Beach -- is it up to**
3 **the Suffolk County District Attorney**
4 **Prosecutor's office to decide ultimately**
5 **whether or not to prosecute someone who is 14:15:58**
6 **arrested?**
7 A. Yes.
8 **Q. So if I understand correctly,**
9 **merely because Van Koot and Schalik were**
10 **arrested didn't automatically mean that they 14:16:07**
11 **were going to be prosecuted by the District**
12 **Attorney's office?**
13 A. Well, we could back up a little
14 bit if I may.
15 **Q. Okay. Answer that question -- 14:16:16**
16 **answer the way you want. If Mr. Goodstadt**
17 **objects or makes a motion to strike later on**
18 **we will don't with it.**
19 A. They were not arrested until I had
20 the approval of the District Attorney's 14:16:30
21 office.
22 **Q. That is interesting. I never knew**
23 **that, so let me then ask you this question.**
24 **Prior to arresting Van Koot and**
25 **Schalik did you seek the approval from any law 14:16:42**

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1 Hesse
2 believe on this case, and I faxed everything
3 to her, she read it over. She said she needed
4 to speak to her bureau chief which in turn she
5 did. She got back to me and she said that the 14:18:08
6 charges look good. And then I filed the
7 charges with the court.
8 **Q. How long was the process between**
9 **your first communication with Ms. Sullivan and**
10 **then her advising you as you just testified 14:18:21**
11 **that the charges looked good?**
12 A. Couple of days maybe.
13 **Q. You only had two conversations**
14 **with Mallory prior to arresting?**
15 A. That was it, yeah. 14:18:33
16 **Q. What did you fax over to her?**
17 A. The entire package. It was all of
18 the plaintiff's statements. Their reports, my
19 reports. The charges that I was going to
20 draft up, the assault and harassment. I 14:18:47
21 believe Officer Bosetti's statement, Rich
22 Bosetti's statements. Basically every kit and
23 caboodle that you see her in front, all these
24 statements, I sent everything.
25 **Q. Did Ms. Sullivan ever advise you 14:19:05**

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1 Hesse
2 that she thought any of the witness statements
3 were strange?
4 A. No.
5 Q. Did she ever question you as to 14:19:12
6 why no witness statement other than perhaps
7 the Bosetti's, Mr. Gary Bosetti's indicated --
8 didn't indicate a pool cue being used?
9 A. Never asked.
10 Q. Did she ever indicate to you that 14:19:30
11 she thought the charges were suspect?
12 A. Not at all.
13 Q. Did she ever indicate to you by
14 any words that she used that you all were
15 engaging in a cover up to protect Gary Bosetti 14:19:42
16 or Richie Bosetti?
17 A. Absolutely not.
18 Q. Has any district attorney involved
19 in the arrest and prosecution of Van Koot and
20 Schalik ever advised you that they thought 14:19:57
21 that there was a cover up?
22 A. Never.
23 Q. Now, this was October of 2004;
24 right?
25 A. Yes. 14:20:07

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1 Hesse
2 A. I don't know.
3 Q. But this is now five years ago;
4 correct?
5 A. This was five years ago, yes. 14:20:55
6 Q. What is the basis for your belief
7 that the Suffolk County District Attorney's
8 office was investigating an alleged cover up?
9 A. Just from the plaintiff's comments
10 in their depositions, that they turned all 14:21:08
11 their stuff over to file a complaint that
12 there was a cover up.
13 Q. So other than what you saw in the
14 depositions and what you read in the
15 depositions are you aware from any other 14:21:18
16 source that the District Attorney is
17 investigating the alleged cover up of anything
18 involving the Halloween incident?
19 A. No.
20 Q. So what happened after 14:21:33
21 Ms. Sullivan gave you the green light to
22 arrest Schalik and Van Koot?
23 A. I took all the paperwork, I filed
24 it with the court. The three -- I think it
25 was three court informations. One harassment, 14:21:47

1 Hesse
2 Q. And we are now August of 2009, so
3 almost five years removed. To your knowledge
4 have you ever been brought up on charges
5 concerning a cover up of the Halloween 14:20:17
6 incident?
7 A. No.
8 Q. Has anyone been brought up on
9 charges concerning the Halloween incident?
10 A. No. 14:20:26
11 Q. To your knowledge has the village
12 been sued by Van Koot or Schalik concerning
13 the events surrounding that evening?
14 A. No, they did not.
15 Q. Are you aware if the District 14:20:34
16 Attorney is investigating you or the Ocean
17 Beach Police Department with regard to a cover
18 up of the Halloween incident?
19 A. Am I aware of an investigation?
20 Q. Yes. 14:20:43
21 A. I believe there is an
22 investigation done.
23 Q. You believe that that
24 investigation has concluded?
25 MR. GOODSTADT: Objection. 14:20:49

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1 Hesse
2 one assault for Van Koot, one assault for
3 Schalik. I filed it with the court clerk.
4 She subsequently issued criminal summonses for
5 their appearance signed by the judge, and they 14:22:00
6 turned themselves in.
7 Q. So if I understand your testimony
8 correctly, the judge had to sign off on the
9 criminal summonses; right?
10 A. Yes. 14:22:13
11 Q. And presumably if the judge didn't
12 think that there was enough good cause he or
13 she would not have signed the summonses?
14 MR. GOODSTADT: Objection.
15 A. I would suspect, yeah. 14:22:20
16 Q. You would suspect yes?
17 A. Yes.
18 Q. So now we have before the arrest
19 were made and correct me if I am wrong, the
20 DA -- you had done your investigation? 14:22:31
21 A. Yes.
22 Q. The DA had looked at whatever you
23 sent them?
24 A. Yes.
25 Q. And they gave you the green light? 14:22:39

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1 Hesse
2 A. Yes.
3 Q. And the judge gave you the green
4 light?
5 A. Yes. 14:22:43
6 Q. What happened after the judge gave
7 you the green light?
8 A. They came into court I believe in
9 December sometime, and they were arraigned and
10 they showed with an attorney. And from that 14:22:54
11 point on they plea bargained and end of story.
12 They pled guilty, they allocuted and --
13 Q. Let's break it down.
14 Did you arrest them after the
15 judge gave you the green light? 14:23:15
16 A. No. After -- when they turned
17 themselves in and they were arraigned they
18 were remanded to police custody for pedigree
19 information, arrest paperwork and
20 fingerprints, pictures. 14:23:29
21 Q. So if I understand the sequence of
22 events, after the judge gave you a green light
23 there was some type of communication made with
24 them that they were in fact charged with
25 certain crimes and they were offered an 14:23:40

Page 722

1 Hesse
2 them?
3 A. Yes.
4 Q. Who read the charges against them?
5 A. The judge. 14:24:37
6 Q. And they were represented by
7 counsel?
8 A. By counsel, yes.
9 Q. By one or two counsel?
10 A. I believe at that time it was two. 14:24:43
11 Q. So each one of them had their own
12 counsel?
13 A. Yes.
14 Q. The charges were read against them
15 and they pled not guilty? 14:24:50
16 A. Correct.
17 Q. When did that take place?
18 A. I believe in December. I don't
19 know the exact date.
20 Q. You indicated in a prior answer 14:24:58
21 that they took a plea at some point in time
22 thereafter?
23 A. Yes.
24 Q. When did they take the plea?
25 A. I don't know. 14:25:08

1 Hesse
2 opportunity to come present themselves to the
3 court, and they did?
4 A. Which they did, yes.
5 Q. So no officer went to their house 14:23:50
6 to arrest them?
7 A. No.
8 Q. No one put them in handcuffs and
9 took them in a boat back to Ocean Beach;
10 right? 14:23:59
11 A. No.
12 Q. And so they came into court, they
13 were arraigned. How were they arraigned, were
14 you there?
15 A. Yes. 14:24:07
16 Q. Describe for the court what took
17 place?
18 A. Its funny because that year for
19 whatever reason the courtroom was shut down,
20 we had to use the village office which was 14:24:17
21 close to do the public except for court
22 purposes. We set up a table, the judge sat
23 behind the table. They stood before the judge
24 and they pled not guilty.
25 Q. So the charges were read against 14:24:32

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1 Hesse
2 Q. Weeks later, months later?
3 A. It was probably a month or two.
4 It could have been longer.
5 Q. Had you had any communication with 14:25:17
6 the District Attorney's office between the
7 time of the arraignment and the time of the
8 plea?
9 A. No.
10 Q. Were you aware at all that there 14:25:24
11 were plea discussions going on?
12 A. I was aware, but I didn't know
13 what they were.
14 Q. How were you aware?
15 A. I know because they had to make 14:25:31
16 motions for discovery and everything else. So
17 I know they were communicating back and forth,
18 but other than an actual plea deal, I don't
19 know if I knew so until towards the end.
20 Q. To your knowledge the defendant's 14:25:44
21 counsel made motions to get discovery?
22 A. Sure.
23 Q. What was your involvement?
24 A. At this point?
25 Q. How did you learn that they made 14:25:52

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1 Hesse
2 motions for discovery?
3 A. I was in court when they made the
4 motions. They were speaking to the judge and
5 working out what they needed to do. 14:26:01
6 Q. Pursuant to that motion did the
7 village -- or did the District Attorney to
8 your knowledge produce any discovery?
9 A. Yes.
10 Q. Do you know what the District 14:26:09
11 Attorney produced?
12 A. I believe all these documents that
13 are sitting in front of us too.
14 Q. So at least to your knowledge now
15 the District Attorney had an opportunity to 14:26:17
16 look at the witness statements and everything
17 else that was in the file, and Van Koot and
18 Schalik's attorneys had the opportunity to
19 look at those same documents; right?
20 A. Yes. 14:26:30
21 Q. Were you notified before the plea
22 was taken that there was going to be a plea?
23 A. I don't recall whether I was
24 notified or not.
25 Q. How did you learn that there was a 14:26:44

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1 Hesse
2 A. Did Christopher Schalik advise him
3 that he did --
4 Q. According to any statement that
5 Lamm provided you did he ever indicate in that 14:28:05
6 statement that Schalik admitted to kicking
7 Bosetti in the face while Van Koot had him on
8 the ground?
9 A. No.
10 Q. In any statement that you saw Lamm 14:28:17
11 provide you during the course of the
12 investigation or even from that evening did he
13 ever advise in that statement that Van Koot
14 admitted to holding Bosetti down while Schalik
15 kicked him in the face? 14:28:30
16 A. No.
17 Q. How about with regard to Snyder,
18 in any statement that Snyder presented to you
19 with regard to the Halloween incident did he
20 ever make reference in there to Van Koot 14:28:39
21 acknowledging that he held Bosetti down while
22 Schalik kicked him?
23 A. No.
24 Q. Did he ever acknowledge in that
25 statement that Schalik admitted to kicking 14:28:48

1 Hesse
2 plea taken?
3 A. I remember sitting in court and
4 listening to the plea and the allocution?
5 Q. What did Van Koot to the best of 14:26:54
6 your recollection plea to?
7 A. You know what, I don't know.
8 Disorderly conduct maybe.
9 Q. Do you know what he allocuted to?
10 A. He did admit to choking Jean 14:27:08
11 Jaeger. He did admit to holding Gary Bosetti
12 while Chris Schalik kicked him in the face.
13 Q. And what did Chris Schalik plea to
14 to the best of your recollection?
15 A. Probably the same type of 14:27:26
16 disorderly conduct.
17 Q. What did to the best of your
18 recollection Chris Schalik allocute to?
19 A. He stated that he did kick Police
20 Officer Gary Bosetti, or attempted to kick him 14:27:37
21 in the face.
22 Q. Now did these witnesses to your
23 recollection advise Officer Lamm that evening
24 that Schalik had in fact kicked Bosetti in the
25 face while Van Koot had him on the ground? 14:27:56

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1 Hesse
2 Bosetti while Van Koot held him down?
3 A. No.
4 Q. Same question with regard to Nofi.
5 In any statement that Nofi ever -- Snyder, 14:28:58
6 excuse me.
7 A. Nofi was not there.
8 Q. With regard to Snyder -- excuse
9 me, Fiorillo. With regard to Fiorillo, in any
10 statement that Fiorillo provided you did he 14:29:12
11 ever state in there that Van Koot acknowledged
12 that he held Bosetti down while Schalik kicked
13 him?
14 A. No.
15 Q. Same question now, did Fiorillo 14:29:27
16 ever acknowledge -- did Fiorillo ever state in
17 any statement that he gave you or any report
18 that he gave you that Schalik admitted to
19 kicking Gary Bosetti while he was being held
20 down by Van Koot? 14:29:42
21 A. No.
22 Q. So would you agree with me that
23 assuming that Van Koot and Schalik truthfully
24 allocuted to the events that took place that
25 evening, that they had lied to the officers 14:29:56

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<p>1 Hesse</p> <p>2 that evening?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. Yes.</p> <p>5 Q. How would you describe, I am going 14:30:07</p> <p>6 to go officer by officer now, and I am only</p> <p>7 referring specifically to the hours</p> <p>8 immediately after the incident took place. So</p> <p>9 from the time that the officers were called to</p> <p>10 go to Hauser's to the time that Chief Paradiso 14:30:28</p> <p>11 came into the station that morning, how would</p> <p>12 you describe Fiorillo's investigation of the</p> <p>13 events that took place?</p> <p>14 MR. GOODSTADT: Objection.</p> <p>15 MR. CONNOLLY: Objection. 14:30:43</p> <p>16 Q. You can answer.</p> <p>17 A. I just believe it was poorly done.</p> <p>18 Q. With regard to Fiorillo now why do</p> <p>19 you believe it was poorly done?</p> <p>20 A. I just -- I don't believe that he 14:30:56</p> <p>21 was aggressive enough to talk to the people he</p> <p>22 thought were the complainant. I don't think</p> <p>23 that he was aggressive enough to go into the</p> <p>24 bar and just get names and phone numbers. You</p> <p>25 know, where is the pool cue; nobody gathered 14:31:24</p>	<p>1 Hesse</p> <p>2 evidence. No names, no phone numbers, they</p> <p>3 didn't secure the premise, they could have</p> <p>4 shut the doors, turn the lights on, turn the</p> <p>5 music on. I think there was just a lot of bad 14:31:35</p> <p>6 decisions made throughout the course of the</p> <p>7 entire incident.</p> <p>8 Q. Now, how about Snyder -- well,</p> <p>9 when I asked you about Fiorillo, do you</p> <p>10 include Snyder and Lamm into that description 14:31:46</p> <p>11 as well, or I could just ask you the questions</p> <p>12 one by one if you want?</p> <p>13 A. Yes, I do.</p> <p>14 Q. So when you say you thought that</p> <p>15 there were bad decisions made you are 14:31:55</p> <p>16 referring to Fiorillo, Lamm and Snyder?</p> <p>17 A. Yes.</p> <p>18 Q. I'm going to try to do this</p> <p>19 without boring everyone to death and going</p> <p>20 line by line through the complaint for the 14:32:36</p> <p>21 sake of expediency. Did any of the plaintiffs</p> <p>22 ever complain to you about having to drive you</p> <p>23 to anyplace in Ocean Beach for something</p> <p>24 unrelated to official duties?</p> <p>25 A. No. 14:33:00</p>
Page 730	Page 731
<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 Q. Did the plaintiffs ever drive you</p> <p>4 anywhere in Ocean Beach for duties unrelated</p> <p>5 to you being a police officer? 14:33:06</p> <p>6 A. No.</p> <p>7 Q. Did any of the plaintiffs ever</p> <p>8 drive you to anyplace off the beach for</p> <p>9 reasons unrelated to official police duty?</p> <p>10 A. No. 14:33:22</p> <p>11 MR. GOODSTADT: When you say off</p> <p>12 the beach you are referring to outside of</p> <p>13 Ocean Beach or off of Fire Island?</p> <p>14 MR. NOVIKOFF: No, outside of</p> <p>15 Ocean Beach which would include outside 14:33:28</p> <p>16 of Fire Island as well, but it would also</p> <p>17 include other towns on Fire Island.</p> <p>18 A. Never.</p> <p>19 Q. Did any of the plaintiffs ever</p> <p>20 complain to you that any decision you made 14:33:39</p> <p>21 created a public safety issue?</p> <p>22 MR. GOODSTADT: Objection.</p> <p>23 A. Never.</p> <p>24 Q. Okay. Did any of the plaintiffs</p> <p>25 ever complain to you that they witnessed any 14:33:59</p>	<p>1 Hesse</p> <p>2 officers drinking in bars while in uniform?</p> <p>3 A. No.</p> <p>4 Q. Did any of the plaintiffs ever</p> <p>5 complain to you with regard to their 14:34:11</p> <p>6 eyewitnessing any officers drinking in the</p> <p>7 bars when off duty?</p> <p>8 A. Not a complaint, but I knew.</p> <p>9 Q. All I care about is what the</p> <p>10 plaintiffs said to you? 14:34:27</p> <p>11 A. There was never a complaint.</p> <p>12 Q. That is what I am asking. So</p> <p>13 let's break it down a little bit and go back</p> <p>14 so the record is clear. Did any of the</p> <p>15 plaintiffs ever complain to you about any 14:34:35</p> <p>16 officers while off duty drinking in bars in</p> <p>17 Ocean Beach?</p> <p>18 A. No complaints.</p> <p>19 Q. Did any of the plaintiffs ever</p> <p>20 complain to you about the subject of you 14:34:57</p> <p>21 selectively enforcing the laws?</p> <p>22 A. No.</p> <p>23 Q. Did any of the plaintiffs ever</p> <p>24 complain to you about treating them</p> <p>25 differently than any other police officer? 14:35:14</p>

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<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Do you recall any complaints that</p> <p>4 Mr. Fiorillo ever made to you concerning</p> <p>5 anything involving the conduct of any police 14:35:33</p> <p>6 officer including him at Ocean Beach other</p> <p>7 than him complaining to you about washing the</p> <p>8 windows?</p> <p>9 A. No.</p> <p>10 Q. Were there any other examples of 14:35:39</p> <p>11 insubordination that you can think of with</p> <p>12 regard to Frank Fiorillo other than what you</p> <p>13 have testified to?</p> <p>14 A. Yes, there was you know at lunch I</p> <p>15 started thinking about it a little bit and 14:35:50</p> <p>16 there was one other incident that he and Kevin</p> <p>17 Lamm both came to me and asked for whatever</p> <p>18 reason if they could take bail, station house</p> <p>19 bail outside the station house, and I told</p> <p>20 them no. That is why it is called station 14:36:13</p> <p>21 house bail. You bring somebody in, you are</p> <p>22 going to bail them. You do it inside the</p> <p>23 confines of the station house. You fill out a</p> <p>24 receipt, you put it on the summons, you attach</p> <p>25 both with the cash and you drop it in the lock 14:36:29</p>	<p>1 Hesse</p> <p>2 box.</p> <p>3 For whatever reason they disagreed</p> <p>4 with me and they went to our judge at the</p> <p>5 time, Joe Russell, who sat as a criminal judge 14:36:37</p> <p>6 in our court, but was a civil attorney. I</p> <p>7 guess they asked him the same question, and he</p> <p>8 was like sure, you can do that. So they went</p> <p>9 over my head to somebody else that is not part</p> <p>10 of the Police Department to ask them 14:36:55</p> <p>11 permission to do it, and subsequently they</p> <p>12 started doing it.</p> <p>13 One evening I caught them outside</p> <p>14 the Police Department in the police car behind</p> <p>15 closed doors taking cash off of somebody for 14:37:07</p> <p>16 bail. Now the money was accounted for, so</p> <p>17 there was no suspect that they were stealing</p> <p>18 or anything. But as far as my previous wish</p> <p>19 that they do not do it, they were told not to</p> <p>20 do it, they did it anyway. And I have caught 14:37:25</p> <p>21 them since doing it.</p> <p>22 So they were reprimanded,</p> <p>23 counseled in personal by me.</p> <p>24 Q. Did Lamm ever complain to you</p> <p>25 about anything going on concerning the Ocean 14:37:42</p>
Page 734	Page 735
<p>1 Hesse</p> <p>2 Beach Police Department?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. That is a little broad, but no, no</p> <p>5 complaints. 14:37:53</p> <p>6 Q. I tried to make it as broad as I</p> <p>7 can make it. Did Lamm ever complain to you</p> <p>8 about the Bosetti's?</p> <p>9 A. No.</p> <p>10 Q. Did Fiorillo ever complain to you 14:38:04</p> <p>11 about the Bosetti's?</p> <p>12 A. No.</p> <p>13 Q. Did Snyder ever complain to you</p> <p>14 about anything involving the conduct of any</p> <p>15 person affiliated with the Ocean Beach Police 14:38:19</p> <p>16 Department?</p> <p>17 A. No.</p> <p>18 Q. Same question with regard to</p> <p>19 Carter?</p> <p>20 A. No. 14:38:24</p> <p>21 Q. Same question with regard to Nofi?</p> <p>22 A. No.</p> <p>23 Q. Did any of the plaintiffs ever</p> <p>24 advise you that they were aware that there was</p> <p>25 an individual in town selling -- carrying 14:38:38</p>	<p>1 Hesse</p> <p>2 lollipops that were laced with drugs?</p> <p>3 A. No, I never heard of that before.</p> <p>4 Q. Did the plaintiffs ever complain</p> <p>5 to you that the bars in Ocean Beach were 14:38:55</p> <p>6 permitting under age individuals drinking?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. What about generally?</p> <p>9 A. We knew that it goes on, it is</p> <p>10 just a matter of catching them. 14:39:11</p> <p>11 Q. What if anything did the Ocean</p> <p>12 Beach Police Department do prior to April 2,</p> <p>13 2006 to enforce the laws concerning under age</p> <p>14 drinking in the bars on Ocean Beach?</p> <p>15 A. Specifically nothing. It was a 14:39:23</p> <p>16 case-by-case. If you caught them, you did.</p> <p>17 If you didn't, you didn't. It was one of</p> <p>18 those things.</p> <p>19 Q. If you saw what you believed --</p> <p>20 not you, but police officers were instructed 14:39:35</p> <p>21 that if they saw what they believed to be</p> <p>22 under age drinking going on either in or out</p> <p>23 of the bars they were to enforce the laws?</p> <p>24 A. Absolutely.</p> <p>25 Q. Did any of the plaintiffs ever 14:39:49</p>

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1 Hesse
2 complain to you that the Bosetti's weren't
3 enforcing the laws with regard to under age
4 drinking?
5 A. No. 14:39:54
6 Q. Let me rephrase the question.
7 Did any of the plaintiffs ever
8 complain you to that the Bosetti's were not
9 enforcing the laws as it pertained to under
10 age drinking? 14:40:10
11 A. No.
12 Q. How about with -- did the
13 plaintiffs ever complain to you that any other
14 police officer wasn't enforcing the laws as to
15 under age drinking? 14:40:20
16 A. No.
17 Q. Did they ever complain to you that
18 you were not enforcing the laws as to under
19 age drinking?
20 A. No. 14:40:29
21 Q. Did you ever instruct any of the
22 plaintiffs not to issue a summons to any bar
23 owner because he or she was a friend of yours?
24 A. No.
25 Q. Well let me actually make it a 14:40:38

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1 Hesse
2 MR. GOODSTADT: Objection.
3 Q. I will try to make it even
4 clearer. Did there ever come a time that you
5 insulted, denigrated, cursed or embarrassed 14:41:38
6 any of the plaintiffs in front of anybody
7 other than police officers -- you know what,
8 take a step back.
9 Did he ever embarrass, denigrate,
10 insult or ridicule any of the plaintiffs in 14:41:54
11 front of anybody while they were police
12 officers at Ocean Beach?
13 A. No.
14 Q. In the complaint the plaintiffs
15 allege certain things regarding the Bosetti's 14:42:15
16 throwing a file cabinet into the bay. Do you
17 recall reading that. Do you recall reading
18 that in the complaint?
19 A. Yes.
20 Q. Do you have knowledge, any 14:42:31
21 knowledge as to what the plaintiffs were
22 referring to when they made those allegations?
23 A. Yes.
24 Q. Can you describe for the court
25 what your knowledge is with regard to those 14:42:39

1 Hesse
2 little bit more broader than that. Did you
3 ever instruct the plaintiffs not to issue any
4 summonses to any bars on Ocean Beach?
5 A. No. 14:40:44
6 Q. Did you ever instruct any of the
7 plaintiffs to stay away from any particular
8 entity and not issue summonses to them?
9 A. No.
10 Q. Did you ever instruct the 14:40:55
11 plaintiffs not to -- any of the plaintiffs not
12 to issue summonses to friends of yours?
13 A. No.
14 Q. Did you ever call Mr. Lamm a loser
15 in front of any citizen at Ocean Beach? 14:41:07
16 A. No.
17 Q. Did you ever insult any of the
18 plaintiffs in front of any citizens of Ocean
19 Beach?
20 A. No. 14:41:16
21 MR. GOODSTADT: Objection.
22 Q. Same question, did you ever insult
23 any of the plaintiffs in front of any visitors
24 to Ocean Beach?
25 A. No. 14:41:25

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1 Hesse
2 allegations?
3 A. I was told the story by Ed
4 Paradiso.
5 Q. That is what I want to know. 14:42:46
6 A. Basically it was an empty filing
7 cabinet, two or three tears, you know like
8 just a short filing cabinet, and it was thrown
9 into the marina, the middle marina by I
10 believe Rich Bosetti. 14:43:05
11 Q. What else did Ed Paradiso tell
12 you?
13 A. I remember that it was a
14 lifeguard, Johnny Bucksbaum, that was asked to
15 go in and retrieve it. They retrieved it, 14:43:16
16 they opened it, it was empty. I think there
17 was some blank fingerprint cards in it.
18 Q. This is what Ed Paradiso told you?
19 A. Yes, he did.
20 Q. And were you in the village the 14:43:30
21 night or -- were you in the village at the
22 time that the Bosetti's through the file
23 cabinet in?
24 A. No.
25 Q. What involvement if any do you 14:43:37

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<p>1 Hesse</p> <p>2 have with regard to anything involving the</p> <p>3 incident involving the file cabinet being</p> <p>4 thrown in the bay?</p> <p>5 MR. GOODSTADT: Objection. 14:43:49</p> <p>6 A. Absolutely none.</p> <p>7 Q. Did you ever speak to Mr. Fiorillo</p> <p>8 about that incident?</p> <p>9 A. No.</p> <p>10 Q. Ever speak with Lamm? 14:43:53</p> <p>11 A. No.</p> <p>12 Q. Nofi?</p> <p>13 A. No.</p> <p>14 Q. Lamm?</p> <p>15 A. No. 14:43:57</p> <p>16 Q. Carter?</p> <p>17 A. No.</p> <p>18 Q. Snyder?</p> <p>19 A. No.</p> <p>20 Q. Let's go to the incident -- not 14:44:02</p> <p>21 the incident, let's go to the allegation</p> <p>22 concerning you putting Fiorillo on the same</p> <p>23 shift for three straight days, same tour three</p> <p>24 straight days and he couldn't move a muscle.</p> <p>25 Do you recall those allegations? 14:44:58</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. Are those allegations true or</p> <p>4 false?</p> <p>5 A. False. 14:45:02</p> <p>6 Q. I think you admitted though you</p> <p>7 did put Mr. Fiorillo on the same tour for</p> <p>8 three state days?</p> <p>9 A. That was his scheduled tour by Ed</p> <p>10 Paradiso. 14:45:15</p> <p>11 Q. I am sorry, the same place?</p> <p>12 A. Yes, it was the general area.</p> <p>13 Q. So Mr. Paradiso had put Mr.</p> <p>14 Fiorillo on the corner of Denhoff and Bay</p> <p>15 Walk? 14:45:25</p> <p>16 A. No, you misunderstand. He</p> <p>17 scheduled the shifts, but I put him on that</p> <p>18 post.</p> <p>19 Q. The post, thank you, and the post</p> <p>20 was Denhoff and Bay Walk? 14:45:33</p> <p>21 A. Yes.</p> <p>22 Q. What were the responsibilities of</p> <p>23 the police officers who were assigned to this</p> <p>24 post?</p> <p>25 MR. GOODSTADT: Objection. 14:45:43</p>
Page 742	Page 743
<p>1 Hesse</p> <p>2 A. It is basically a west end post,</p> <p>3 it is just not Denhoff and Bay Walk. We just</p> <p>4 called it that. But you had everything from</p> <p>5 the police station west of that area that 14:45:53</p> <p>6 encompassed about four or five blocks.</p> <p>7 Q. So what was a police officer that</p> <p>8 you assigned to that post supposed to do as</p> <p>9 part of his duties and responsibilities</p> <p>10 associated with that post? 14:46:05</p> <p>11 A. Generally a regular patrol.</p> <p>12 Q. I am not a police officer, so --</p> <p>13 A. Basically he walked the area.</p> <p>14 There is about one, two, three, four, five</p> <p>15 bars in that area and one, two, three -- about 14:46:18</p> <p>16 ten storefronts in that area, and that was his</p> <p>17 post.</p> <p>18 Q. And you categorically deny that</p> <p>19 you told Mr. Fiorillo that he had to stand</p> <p>20 under that light post for three straight days 14:46:37</p> <p>21 without moving a muscle?</p> <p>22 A. Yes, that wasn't true.</p> <p>23 MR. GOODSTADT: We have a classic</p> <p>24 material issue effect.</p> <p>25 MR. NOVIKOFF: Yes, but it is not 14:46:58</p>	<p>1 Hesse</p> <p>2 relevant.</p> <p>3 MR. GOODSTADT: That is why we</p> <p>4 asked questions.</p> <p>5 MR. NOVIKOFF: You put it in your 14:47:09</p> <p>6 complaint.</p> <p>7 Q. So Mr. Hesse, let me ask you this,</p> <p>8 I think the jury would want to know. Why did</p> <p>9 you do that?</p> <p>10 MR. GOODSTADT: Objection. 14:47:17</p> <p>11 A. Like I stated --</p> <p>12 MR. NOVIKOFF: What?</p> <p>13 MR. GOODSTADT: Do what?</p> <p>14 Q. I thought it was clear we were</p> <p>15 referring back to the prior question. I will 14:47:25</p> <p>16 make the question clear.</p> <p>17 Why did you assign Mr. Fiorillo to</p> <p>18 that post for three straight tours?</p> <p>19 A. His regular duty performance was</p> <p>20 to operate a golf cart. He liked it. That is 14:47:40</p> <p>21 what he liked to do. It is called a G.E.M.</p> <p>22 car, and he would go on residential patrol.</p> <p>23 That is what he liked to do. So I would</p> <p>24 assign him that regular post because like I</p> <p>25 said that is what he liked to do. 14:48:00</p>

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1 Hesse
2 Because of his actions that day of
3 insubordination I felt that a suitable
4 punishment would be to take him out of the
5 G.E.M. car and put him on a foot post. 14:48:12
6 **Q. You did that for three straight**
7 **tours?**
8 A. I don't know if it was three
9 tours. They say it was three tours. It might
10 have been a tour and a half or two tours 14:48:24
11 maybe. I am a little bit of a lenient guy, I
12 don't know.
13 **Q. The plaintiffs make a number of**
14 **allegations about driving officers to**
15 **checkpoints? 14:48:36**
16 A. Yes.
17 **Q. Either these officers being drunk**
18 **or some of them not being drunk. Do you**
19 **remember those allegations?**
20 A. Yes. 14:48:47
21 **Q. Let's talk about that for a little**
22 **bit. Do you have an understanding as to what**
23 **the plaintiffs are talking about when they**
24 **make allegations about you directing them to**
25 **drive other police officers to the 14:48:59**

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1 Hesse
2 **Q. Would the relief point be where**
3 **officers would drive their own cars to start**
4 **their shifts?**
5 A. Yes. 14:49:58
6 **Q. Unless they took a boat over?**
7 A. Yes.
8 **Q. Were the plaintiffs the only**
9 **officers that you ever instructed to drive**
10 **other officers to the relief point? 14:50:10**
11 A. No.
12 **Q. Did you ever instruct any of the**
13 **plaintiffs to drive a drunken police officer**
14 **who had just finished his tour to the**
15 **checkpoint? 14:50:22**
16 A. No.
17 MR. GOODSTADT: Objection.
18 **Q. Did any of the plaintiffs ever**
19 **object to you directing them to drive any**
20 **police officer to a checkpoint? 14:50:37**
21 A. No.
22 **Q. Did the plaintiffs ever complain**
23 **to you that you left the village shorthanded**
24 **by instructing them to drive any other off**
25 **duty police officer to the checkpoint? 14:50:53**

1 Hesse
2 **checkpoints?**
3 MR. GOODSTADT: Objection.
4 A. I know what they mean.
5 **Q. What do they mean? 14:49:05**
6 A. Our checkpoint, the checkpoint --
7 **Q. Break it down. Have you ever**
8 **instructed officers to drive other officers to**
9 **checkpoints?**
10 A. Yes. 14:49:18
11 **Q. Tell the jury why you would do**
12 **that?**
13 A. End of tour, if a guy did overtime
14 and he had to get out of there we would
15 normally drive them out, and that was our 14:49:28
16 relief point, that is what we did every day
17 three, four to five times a day. That is what
18 we did.
19 **Q. When you say that was your relief**
20 **point, for the people who don't know what that 14:49:39**
21 **means, what do you mean?**
22 A. That would be where we would pick
23 up the police car and we would relief guys
24 going on deputy and off duty, and that is
25 where we make the exchange. 14:49:47

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1 Hesse
2 A. No.
3 **Q. In your opinion did you leave the**
4 **village shorthanded when you directed one**
5 **officer to drive an off duty police officer to 14:51:01**
6 **the checkpoint?**
7 A. No.
8 **Q. Let's talk about the termination a**
9 **little bit, but more specifically because I**
10 **think Mr. Goodstadt covered it with you this 14:51:32**
11 **morning. Let's address specifically April 2,**
12 **2004. What time did the meeting start?**
13 A. You mean 2006.
14 **Q. 2006, sorry. What time did the**
15 **meeting start? 14:51:48**
16 A. 11ish maybe.
17 **Q. What time did it end?**
18 A. I don't recall. It could have
19 gone a couple of hours.
20 **Q. When in relation to 11 o'clock did 14:51:58**
21 **you begin the process of informing the**
22 **plaintiffs privately that they were not going**
23 **to be rehired?**
24 A. That was my first order of
25 business. 14:52:08

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1 Hesse
2 **Q. And after you told them that they**
3 **were not rehired and you said whatever you**
4 **said and they said whatever they said did you**
5 **direct them to leave the island, the village?** 14:52:14
6 A. Yes. I set up a water taxi to be
7 there so they didn't have to stand around and
8 be gawked at and, you know, I paid for the
9 water taxi and everything.
10 **Q. Now to your knowledge did they go** 14:52:30
11 **on the water taxi or did they stay and linger**
12 **in the village?**
13 A. They got on the water taxi.
14 **Q. So approximately if the meeting**
15 **started at 11 and that was the first order of** 14:52:41
16 **business, at what point in time do you recall**
17 **them being on the water taxi and going off the**
18 **island?**
19 A. By the time we settled in and I
20 started talking to them it could have been an 14:52:53
21 hour at most.
22 **Q. Then what did you do after you**
23 **spoke to the four plaintiffs that you spoke to**
24 **that morning?**
25 A. They left and the general meeting 14:53:01

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1 Hesse
2 **Q. Who asked you?**
3 A. Some of the other police officers.
4 **Q. Okay. Do you recall who?**
5 A. Well, what had happened was I 14:54:01
6 started calling in officers one at a time
7 because I was doing a one-on-one with some
8 other guys, and I think a lot of people had
9 feared that they were going too. So I was
10 asked what had happened and I basically 14:54:17
11 explained that they won't be returning this
12 year, and we just proceeded with our meeting
13 and I tried to stay off of it.
14 **Q. So other than in those one-on-ones**
15 **did you ever in front of the entire group make** 14:54:29
16 **any reference to the plaintiffs?**
17 A. No.
18 **Q. Direct or indirect?**
19 A. No.
20 MR. NOVIKOFF: Off the record. 14:54:48
21 THE VIDEOGRAPHER: The time is
22 2:56, we are off the record.
23 (Recess taken.)
24 THE VIDEOGRAPHER: The time is
25 3:06, we are on the record. 15:04:38

1 Hesse
2 started.
3 **Q. Where did the general meeting take**
4 **place?**
5 A. It was in the boat house in Ocean 14:53:08
6 Beach, or known as the boat house.
7 **Q. How long did that meeting go on**
8 **for?**
9 A. A few hours maybe.
10 **Q. Were you at a podium and was** 14:53:15
11 **everybody else sitting, or were you in seats**
12 **or in a circle?**
13 A. No, they all sat facing me and I
14 stood or sat behind the table.
15 **Q. Did you make any comments during** 14:53:31
16 **this meeting that you just described regarding**
17 **any of those four plaintiffs?**
18 A. No.
19 **Q. Did you make any derogatory**
20 **comments about those four plaintiffs?** 14:53:45
21 A. No.
22 **Q. Did you call them anything; did**
23 **you make reference to them at all in this**
24 **meeting?**
25 A. I was asked what happened. 14:53:52

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1 Hesse
2 **Q. Now, Mr. Hesse, let's go to**
3 **Exhibit 27.**
4 A. Okay.
5 **Q. This document was dated March 11,** 15:05:10
6 **2006; correct?**
7 A. Yes.
8 **Q. Did the 2006 season start as of**
9 **March 11, 2006?**
10 A. No. 15:05:25
11 **Q. The meeting was held on April 2,**
12 **2006, had the season started as of April 2,**
13 **2006?**
14 A. No.
15 **Q. When did the season start in 2006?** 15:05:34
16 A. The season usually starts two
17 weeks before Memorial Day.
18 **Q. May 31st or around that time?**
19 A. 28th, early, late, it depends.
20 **Q. Once you made the decisions as to** 15:05:47
21 **whom you were going to -- let me take a step**
22 **back. You answered some questions by Mr.**
23 **Goodstadt concerning your communications with**
24 **Allison Chester concerning what your rights**
25 **were and what the plaintiff's rights were?** 15:06:02

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1 Hesse
2 A. Yes.
3 Q. Let's break it down. Why did you
4 call Ms. Chester prior to March -- I'm sorry,
5 prior to April 2, 2006 with regard to what the 15:06:12
6 plaintiffs' rights were?
7 A. I wanted to make sure that, you
8 know, that I did the right thing.
9 Q. In terms of what?
10 A. I didn't want to do anything that 15:06:24
11 was illegal.
12 Q. What was the reason why you asked
13 Ms. Chester what your rights were?
14 A. I wanted to make sure that once
15 again I didn't do anything illegal. 15:06:43
16 Q. When you say anything illegal, you
17 mean with regard to your decision to not
18 rehire the plaintiffs for the season; is that
19 correct?
20 A. Right, based on Civil Service law. 15:06:55
21 Q. When were you appointed Acting
22 Deputy Chief?
23 A. I think it was January either 8th
24 or 18th or 6th. Somewhere in January of 2006.
25 Q. Between the time that Chief 15:07:13

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1 Hesse
2 Q. So with regard now only to the off
3 season in 2005 between mid September and the
4 end of December 2005 did you schedule to your
5 knowledge any of the plaintiffs to do 15:08:28
6 part-time shifts?
7 A. Yes.
8 Q. Who did you schedule?
9 A. Tom Snyder, Eddie Carter. I
10 believe Nofi did maybe one or two tours. And 15:08:41
11 Frank Fiorillo did either one or two tours.
12 Q. During that period of time had you
13 had any reason to consider whether or not --
14 well, withdrawn.
15 During that period of time were 15:08:56
16 you aware that you were going to be given the
17 responsibilities as Acting Deputy Chief in
18 2006?
19 A. No.
20 Q. When did you first learn that you 15:09:06
21 were going to be considered to be the Acting
22 Deputy Chief?
23 A. I think in late December.
24 Q. And when were you advised that you
25 were going to actually be voted upon to be the 15:09:18

1 Hesse
2 Paradiso went out for good in September of
3 2005.
4 A. Right.
5 Q. And the time that you were 15:07:19
6 appointed by board resolution to be acting
7 chief, who was responsible for scheduling
8 tours?
9 A. I was.
10 Q. Now, did the season -- the 2005 15:07:30
11 season ended sometime in October?
12 A. September it really ends, two
13 weeks after Labor Day.
14 Q. So middle of September?
15 A. Yes. 15:07:48
16 Q. Between the middle of September
17 and January did you have to schedule officers
18 to work part-time?
19 A. Yes.
20 Q. There is a difference between 15:07:59
21 being -- at least to your understanding for
22 Ocean Beach was there a difference between
23 being a seasonal officer and being an off
24 season part-time officer?
25 A. Yes, it is a title thing. 15:08:11

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1 Hesse
2 Acting Deputy Chief?
3 A. Maybe a week before.
4 Q. At what point in time did you
5 begin to formulate an opinion as to whether or 15:09:28
6 not you were going to rehire any of the five
7 plaintiffs for the 2006 season?
8 A. When the job became mine in
9 January through February and March I started
10 thinking about what I wanted to do and how I 15:09:49
11 wanted the department to go forward and I made
12 a decision.
13 Q. Let's talk about that. How did
14 you want the department to go forward once you
15 learned that you were going to be the Acting 15:10:00
16 Deputy Chief?
17 A. I wanted the department to be a
18 little more respectful, a little more
19 understanding of the needs of the village. We
20 are a very community service oriented Police 15:10:15
21 Department. We handle everything from a
22 splinter in a baby, to a dog fighting, noise,
23 bar fights, to possibly rape, or being stab or
24 short of murder. So I mean I wanted the
25 department to move in a different direction. 15:10:36

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1 Hesse
2 **Q. Did Mr. Fiorillo fit within the**
3 **type of Police Department that you wanted**
4 **Ocean Beach to become upon your appointment to**
5 **Acting Chief? 15:10:49**
6 A. In my opinion, no.
7 **Q. Why not?**
8 A. I think he was a little too abrupt
9 with the community and the people who
10 vacationed there. I tried to instill in a lot 15:10:58
11 of these guys that people come there to have
12 fun, and we are there to make sure that they
13 do it safely and within the scope of the law.
14 **Q. When you say too abrupt, can you**
15 **give me some examples? 15:11:13**
16 A. Yeah, we have one of these silly
17 laws where you can't bike ride during the
18 summer season, and let's say Officer Fiorillo
19 would pull over this woman for riding her
20 bike, and because she failed to have 15:11:27
21 identification on her he would berate her and
22 yell at her, and that is not what we are
23 doing, that is not what we are there for.
24 **Q. When you say berate and yell what**
25 **do you mean? 15:11:43**

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1 Hesse
2 **why he considered her to be a bitch?**
3 A. He felt that she had an attitude,
4 a certain attitude.
5 **Q. What if anything did you do with 15:12:38**
6 **regard to Mr. Fiorillo upon receipt of this**
7 **complaint by this woman?**
8 A. Well, I let him continue to write
9 the summons. I told him not to say another
10 word, that was between me and him, I didn't do 15:12:54
11 it in front of her, I pulled him aside a
12 little bit. I said just calm down, it is a
13 bike riding ticket, write the ticket and let
14 her go, and that is it.
15 **Q. Any other examples that you can 15:13:06**
16 **think of as you sit here today?**
17 A. Similar complaints. We had one
18 kid whose father came to talk to me who
19 happens to be a corrections officer, Tom
20 Foley, his son was stopped for riding his bike 15:13:22
21 at night. The kid, maybe he mouth off a
22 little bit to him, but Frank threatened to
23 shoot him in the head. The father came down
24 and complained with his son that Frank stated
25 he was going to shoot him in the head. 15:13:39

1 Hesse
2 A. Where is your fucking ID, how come
3 you don't have your ID, this is illegal.
4 **Q. Hold on, you got to go slowly.**
5 **What else? 15:11:43**
6 A. You should know better. You
7 should always have your ID on you. But I mean
8 yelling at these people.
9 **Q. How did you learn of this, this**
10 **specific example? 15:12:02**
11 A. This specific example, I was
12 called to the scene.
13 **Q. By whom?**
14 A. By another police officer.
15 **Q. Did the woman complain to you 15:12:11**
16 **about how she was spoken to?**
17 A. Yes.
18 **Q. What was Mr. Fiorillo's response**
19 **if any?**
20 A. That she was a bitch and that, you 15:12:19
21 know, she disrespected him.
22 **Q. Did Mr. Fiorillo indicate how she**
23 **disrespected him?**
24 A. Just by talking back.
25 **Q. Did Mr. Fiorillo explain to you 15:12:30**

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1 Hesse
2 **Q. Shoot him in the head or shoot him**
3 **in the face?**
4 A. I think it was shoot him in the
5 head. 15:13:46
6 **Q. Did you speak to Mr. Fiorillo**
7 **concerning this?**
8 A. Yes.
9 **Q. What was Mr. Fiorillo's response**
10 **to you if any? 15:13:52**
11 A. He said that the kid was irate, he
12 was throwing his bike around, and I told him,
13 I said Frank, you know what, I don't care, you
14 just don't talk to people like that. I talked
15 to other witnesses that were there and they 15:14:07
16 said that is not what happened. Frank just
17 went off on one of his regular tears and
18 started to yell and berate this guy in the
19 street.
20 **Q. When you say regular tears, what 15:14:19**
21 **do you mean?**
22 A. This was a usual thing with Frank.
23 You know, he carried the badge and he carried
24 a chip on his shoulder. It was just a regular
25 occurrence. 15:14:28

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1 Hesse
2 **Q. Let me ask you a question. I am**
3 **sure Mr. Goodstadt will ask you this question**
4 **if he has not already. How come you didn't**
5 **advise Mr. Paradiso that in your opinion 15:14:37**
6 **Fiorillo should not be rehired?**
7 A. He knew. He knew. He dealt with
8 him. But you know what, Ed Paradiso had a
9 different outlook on things than I did. He
10 enjoyed the misery of sending these guys out 15:14:54
11 there to do this kind of thing. He was happy
12 they didn't have discretion, because we have
13 such silly laws that in our village code book,
14 eating on the beach, drinking on the beach,
15 not alcohol, but regular beverages on the 15:15:12
16 beach. You can't eat or drink past a certain
17 point on a certain street. The bike riding
18 laws. You name it. Ball playing on the
19 beach. He is out there writing a father for
20 throwing a tennis ball to his son. 15:15:30
21 These are the kind of things that
22 went on on a regular basis. He took this poor
23 86 year old woman who didn't have ID eating
24 peanuts on the beach and because she didn't
25 have ID he would escort her all the way to the 15:15:42

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1 Hesse
2 **types of summonses?**
3 A. No, not really.
4 **Q. Did you -- I am trying to**
5 **understand. Why didn't you ever tell Paradiso 15:16:53**
6 **hey, Fiorillo is just, you know, in my opinion**
7 **he should not be rehired?**
8 A. You know, it is such a small
9 village and in conversation I don't want to
10 say I never said it, I may have said it. But, 15:17:07
11 you know, I don't know for sure if we talked
12 about it. We talked about a lot of -- like I
13 said earlier I never saw eye to eye with Ed
14 Paradiso on a lot of things. I would come in
15 for my tour he would already be done. He 15:17:27
16 would come in late.
17 It was hard to talk to him. I
18 mean towards the end of his rein it just --
19 the department was falling apart, and I blame
20 it on him and I blame it on type of 15:17:38
21 enforcement that was going on. So...
22 **Q. So you thought for want of a**
23 **better term it would have been a futile act to**
24 **ask Ed not to rehire Fiorillo?**
25 A. Absolutely it was a futile act. 15:17:53

1 Hesse
2 police station to verify who she was. I mean
3 is that really a crime; what does it take.
4 How much does the village have to take.
5 **Q. Let me just clarify this. There 15:15:53**
6 **was an occasion where an 86 year old woman was**
7 **on a bike, she --**
8 A. No, she was eating peanuts on the
9 beach.
10 **Q. She didn't have ID and Mr. 15:16:04**
11 **Fiorillo escorted this woman back to the**
12 **police station to verify that she was in fact**
13 **who she was?**
14 A. Yes.
15 **Q. You said that Paradiso knew all 15:16:13**
16 **this. Now I am only concerned about Mr.**
17 **Fiorillo for the time being. What do you mean**
18 **that Paradiso knew all about this?**
19 A. Frank worked split tours. He
20 would partially for me and he would work 15:16:29
21 partially for Ed Paradiso, and Ed Paradiso
22 would encourage him to go out there and do
23 these types of summonses.
24 **Q. Did you ever discuss with Paradiso**
25 **why he was encouraging Fiorillo to do these 15:16:42**

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1 Hesse
2 Absolutely.
3 **Q. Because Paradiso knew what**
4 **Fiorillo was doing?**
5 A. Yes. Paradiso would go to these 15:17:57
6 board meetings and sit there, and people would
7 yell about certain things, noise, this, that
8 the other thing. And he used Frank as a tool
9 of the Police Department to just go out there
10 and just hammer these people into submission, 15:18:11
11 and that is not what we are supposed to.
12 **Q. In your opinion Mr. Fiorillo would**
13 **not have reflected the type of Police**
14 **Department that you wanted?**
15 A. That is correct. 15:18:23
16 **Q. So when you became in control of**
17 **who was to be rehired and who was not, you**
18 **made the decision not to hire Mr. Fiorillo?**
19 A. That is correct.
20 **Q. Now you talked about some silly 15:18:32**
21 **laws that were on the books. Between the**
22 **season of 2006 when you first were the Acting**
23 **Chief and this season, 2009, has the**
24 **enforcement of those silly laws as you put it**
25 **increased or decreased? 15:18:48**

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<p>1 Hesse</p> <p>2 A. Well I made a lot of changes. It</p> <p>3 was hard to establish a, you know, a statistic</p> <p>4 because I changed all the paperwork.</p> <p>5 Midstream through 2006 I changed the summons 15:19:02</p> <p>6 format. So I had to retrain and re-educate my</p> <p>7 guys on how to write the summonses correctly.</p> <p>8 There was a lot of issues.</p> <p>9 Now I mean that we are in to 2009</p> <p>10 it is up. I mean we enforce, we still enforce 15:19:16</p> <p>11 those silly laws, but we do it with respect.</p> <p>12 Q. So when you say you had to retrain</p> <p>13 your officers, what do you mean?</p> <p>14 A. Basically a lot of the paperwork</p> <p>15 changed. So I had to sit down as a group and 15:19:34</p> <p>16 explain what I expected on the summons, how to</p> <p>17 issue the summons. We even changed because it</p> <p>18 is a four-page document which document you</p> <p>19 give to the defendant.</p> <p>20 Q. Let me ask you this, I am not 15:19:46</p> <p>21 trying to be argumentative, I am trying to</p> <p>22 understand. How did the change in the summons</p> <p>23 affect the amount of summonses up or down that</p> <p>24 were issued with regard to these silly laws?</p> <p>25 A. I think some of the guys were 15:20:03</p>	<p>1 Hesse</p> <p>2 afraid to write them because they didn't</p> <p>3 really -- you know, there were getting the</p> <p>4 idea how to write them, but I think they were</p> <p>5 just cautious on how many they were writing 15:20:13</p> <p>6 just to get the feel of it.</p> <p>7 Q. Let's talk about Mr. Lamm. Was</p> <p>8 Mr. Lamm in your opinion the type of officer</p> <p>9 that you wanted in the department as you saw</p> <p>10 the department should be once you became the 15:20:36</p> <p>11 Acting Chief?</p> <p>12 A. No.</p> <p>13 Q. He why not?</p> <p>14 A. He was a lot like Fiorillo.</p> <p>15 Showed no discretion. You know, from time to 15:20:44</p> <p>16 time he would have to be counseled, talked to</p> <p>17 about certain actions that he took.</p> <p>18 Specifically -- it started to get to the point</p> <p>19 where under our village code he started</p> <p>20 handcuffing individuals and bringing them to 15:21:05</p> <p>21 the Police Department to issue summonses for a</p> <p>22 Village violation where he should be doing it</p> <p>23 out on his post where he was to begin with.</p> <p>24 Q. I don't understand, what do you</p> <p>25 mean? 15:21:19</p>
Page 766	Page 767
<p>1 Hesse</p> <p>2 A. So he would be walking down the</p> <p>3 street where he would see some suspect pissing</p> <p>4 in public. He would throw the guy in</p> <p>5 handcuffs, toss him, do an illegal search and 15:21:27</p> <p>6 seizure because what the heck are you looking</p> <p>7 for, number one you have no probable cause.</p> <p>8 Bring the guy to the police station and issue</p> <p>9 him a summons and then unhandcuff him and let</p> <p>10 him go. 15:21:43</p> <p>11 Q. What should he have done?</p> <p>12 A. Wrote the summons right there.</p> <p>13 Show me some ID, check it out, make sure it is</p> <p>14 a valid ID, write the summons and send the guy</p> <p>15 on his way. 15:21:51</p> <p>16 Q. Did Paradiso instruct him to put</p> <p>17 these people in handcuffs and take them to the</p> <p>18 police station?</p> <p>19 A. No.</p> <p>20 Q. Did you ever instruct Kevin to 15:22:00</p> <p>21 stop putting people in handcuffs for pissing</p> <p>22 in public type violations?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Did he listen to you?</p> <p>25 A. No, he did not. 15:22:16</p>	<p>1 Hesse</p> <p>2 Q. Was that an act of</p> <p>3 insubordination?</p> <p>4 A. Yes, it was.</p> <p>5 Q. Did that have any impact on your 15:22:19</p> <p>6 decision as to whether or not Mr. Lamm was the</p> <p>7 type of officer that you wanted on your police</p> <p>8 force going forward in light of the changes</p> <p>9 that you wanted to make?</p> <p>10 A. Right, I didn't want him any 15:22:26</p> <p>11 longer with the department.</p> <p>12 Q. Are there any other examples that</p> <p>13 you can think of where you instructed Mr. Lamm</p> <p>14 while he was working on your shift to do</p> <p>15 something as it related to summonses that he 15:22:36</p> <p>16 didn't do?</p> <p>17 A. To summonses that he didn't do;</p> <p>18 not that I can think of.</p> <p>19 Q. How about generally, do you recall</p> <p>20 any other examples where he just disregarded 15:22:47</p> <p>21 one of your directions or instructions?</p> <p>22 A. Yes, there was one other time that</p> <p>23 I can think of, this is really towards the end</p> <p>24 of his employ. We just got this big guy off</p> <p>25 the water taxi, the guy was probably 6 foot 2, 15:23:03</p>

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<p>1 Hesse</p> <p>2 240 and huge. And I was able to calm this</p> <p>3 individual down, I was able to get him off the</p> <p>4 water taxi. I forget what the disturbance was</p> <p>5 on the taxi, whether he was not listening to 15:23:18</p> <p>6 the captain's command to sit down, stop</p> <p>7 drinking, smoking or whatever it was, and we</p> <p>8 had about five officers in a line because this</p> <p>9 guy was so big and we were worried that maybe</p> <p>10 he may act inappropriate, attack us, punch 15:23:38</p> <p>11 somebody, who knows, he was irate.</p> <p>12 And I am talking to the guy and I</p> <p>13 am walking him down the street and Kevin out</p> <p>14 of nowhere says you fucking asshole, I will</p> <p>15 kick your ass and the guy steps at us, and I 15:23:56</p> <p>16 actually had to reprimand Kevin right there on</p> <p>17 the spot, tell him to shut up, and step</p> <p>18 between him and the guy and get this guy to</p> <p>19 turn around and keep walking. This is not a</p> <p>20 police officer that we needed working in the 15:24:09</p> <p>21 department.</p> <p>22 Q. While we are on that subject, you</p> <p>23 talked about Mr. Fiorillo's demeanor with the</p> <p>24 public. What was Mr. Lamm's demeanor in the</p> <p>25 public like; in your opinion based upon either 15:24:19</p>	<p>1 Hesse</p> <p>2 your observations or what you were told?</p> <p>3 A. His demeanor was abrupt also. You</p> <p>4 know every time you stop somebody and write</p> <p>5 them a summons they are going to question your 15:24:33</p> <p>6 authority, they are going to do something.</p> <p>7 You know you take it as for what it is worth.</p> <p>8 But Kevin Lamm, he would step right into you,</p> <p>9 almost provoke the guy into a fight. That is</p> <p>10 not the demeanor that we need in this Police 15:24:46</p> <p>11 Department.</p> <p>12 Q. What about Joe Nofi, in your</p> <p>13 opinion was he the type of officer that you</p> <p>14 wanted to be in your department given the</p> <p>15 changes that you wanted to make? 15:25:04</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. Simply put Joe Nofi was a goof</p> <p>19 ball. You know, he was a nice guy, but he was</p> <p>20 just a goof ball. I mean paperwork was shoddy 15:25:16</p> <p>21 at best. Summonses were horrible, illegible,</p> <p>22 illiterate. And then if somebody was walking</p> <p>23 in front of him and he was not wearing a</p> <p>24 shirt, which is another one of our silly laws</p> <p>25 in town, he wouldn't walk up to the guy and 15:25:37</p>
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<p>1 Hesse</p> <p>2 just say excuse me, sir, you can't walk around</p> <p>3 without a shirt on. He would say hey asshole,</p> <p>4 come here. That is what he would do.</p> <p>5 I would have to tell him, counsel 15:25:46</p> <p>6 him, Joe, don't talk to people like that. Go</p> <p>7 over, excuse me, sir, this is what you need to</p> <p>8 do. Same thing when it pertained to anything,</p> <p>9 he would act the same way all the time. I did</p> <p>10 not want it to continue under my command. 15:26:02</p> <p>11 Q. Let me ask you, you said something</p> <p>12 about Joe Nofi's -- was it Joe Nofi's</p> <p>13 summonses were illiterate or that Joe Nofi was</p> <p>14 illiterate?</p> <p>15 A. The summonses. 15:26:12</p> <p>16 Q. Then let me ask you this. Did you</p> <p>17 ever advise Paradiso, hey, you know what, I</p> <p>18 don't think Nofi should be rehired for the</p> <p>19 next season because of how he treated the</p> <p>20 public in your opinion? 15:26:31</p> <p>21 A. Specifically no. Every year we</p> <p>22 were shorthanded, so we had to work with what</p> <p>23 we had.</p> <p>24 Q. Same question with regard to Lamm,</p> <p>25 did you ever speak to Paradiso about perhaps 15:26:41</p>	<p>1 Hesse</p> <p>2 Paradiso not rehiring Lamm for the season?</p> <p>3 A. Not specifically, no.</p> <p>4 Q. For the same reason as Nofi?</p> <p>5 A. Yes. We just of went season to 15:26:53</p> <p>6 season with what we had.</p> <p>7 Q. Did Paradiso ever ask you your</p> <p>8 opinion as to -- take a step back.</p> <p>9 With regard to rehiring anyone for</p> <p>10 any particular season did Paradiso ever ask 15:27:05</p> <p>11 you what your opinion was with regard to a</p> <p>12 particular officer?</p> <p>13 A. Not that I recall, no.</p> <p>14 Q. Let's talk about Carter. Was</p> <p>15 Carter the type of officer that you would have 15:27:16</p> <p>16 been comfortable with on your department given</p> <p>17 the changes that you were going to make?</p> <p>18 A. No.</p> <p>19 Q. Why not?</p> <p>20 A. You know, he was kind of hidy 15:27:26</p> <p>21 tidy, talks out of both side of his mouth</p> <p>22 between cops. You know, he just kind of</p> <p>23 rubbed me the wrong way sometimes, and I just,</p> <p>24 you know, the thing with the sleeping on duty,</p> <p>25 bragging about it. I would relieve him in the 15:27:43</p>

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<p>1 Hesse</p> <p>2 morning, his hair is standing straight up.</p> <p>3 Yeah, as soon as I got in I went upstairs, I</p> <p>4 went to sleep.</p> <p>5 You know, enough, I just didn't 15:27:52</p> <p>6 want to deal with it any more. I felt moving</p> <p>7 forward he just wasn't a good candidate to</p> <p>8 keep on.</p> <p>9 Q. How about Snyder, was he the type</p> <p>10 of officer that you would have been 15:28:02</p> <p>11 comfortable with in your department given the</p> <p>12 changes that you wanted to make?</p> <p>13 A. You know Snyder was a difficult</p> <p>14 decision for me. Personally I always liked</p> <p>15 Tommy. We always got along, I thought we 15:28:15</p> <p>16 worked pretty well together. But he had -- he</p> <p>17 had some issues. He had some personal issues</p> <p>18 which he rarely ever discussed with me, or</p> <p>19 maybe he discussed it with other members of</p> <p>20 the department, but he seemed towards the end 15:28:30</p> <p>21 to start being angry a lot. Whether it was</p> <p>22 with himself or his other job or members of</p> <p>23 our department. So I thought moving forward</p> <p>24 maybe it was best that he just moved on and</p> <p>25 stayed at his full-time job. 15:28:49</p>	<p>1 Hesse</p> <p>2 Q. What were those personal issues?</p> <p>3 A. I think he was sick for a while.</p> <p>4 He had maybe some issues with his kids,</p> <p>5 ex-wives, I don't know if he has one or two. 15:28:59</p> <p>6 Money issues. Everybody has issues in their</p> <p>7 personal lives, you know.</p> <p>8 Q. Let me ask you this. We now -- in</p> <p>9 January at some point in time you were</p> <p>10 actually appointed. At some point in time 15:29:18</p> <p>11 prior to the actual appointment you knew you</p> <p>12 were going to be Acting Chief?</p> <p>13 A. Uh-hum.</p> <p>14 Q. At that point in time when you</p> <p>15 knew that you were going to become Acting 15:29:29</p> <p>16 Chief did you schedule Lamm for any part-time</p> <p>17 shifts?</p> <p>18 A. You know, Lamm was working for the</p> <p>19 Town of Islip Airport security, police,</p> <p>20 whatever, I don't know what they call 15:29:45</p> <p>21 themselves right now, law enforcement. I was</p> <p>22 really unaware of what his plans were, what he</p> <p>23 wanted to do. There was never any</p> <p>24 communication between me and him. I called</p> <p>25 him once for his weapon because I needed to 15:29:59</p>
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<p>1 Hesse</p> <p>2 issue it to somebody else so he can get</p> <p>3 qualified because I was short weapons. And</p> <p>4 you think he would have said something to me</p> <p>5 then about his other job. 15:30:10</p> <p>6 But he didn't work for us for I</p> <p>7 think it was eight or nine months. So I</p> <p>8 wasn't sure if he was going to plan on coming</p> <p>9 back or what. But then I just decided that</p> <p>10 maybe it was best that he just moved on anyway 15:30:28</p> <p>11 with all the other issues.</p> <p>12 Q. What do you mean he had not worked</p> <p>13 for you for eight or nine months?</p> <p>14 A. I guess he must have said</p> <p>15 something to Ed Paradiso about getting this 15:30:33</p> <p>16 full-time job because there was an academy</p> <p>17 involved, there was training and there was a</p> <p>18 full-time job that he had received.</p> <p>19 Q. Okay.</p> <p>20 A. So he was not scheduled for 15:30:42</p> <p>21 anything for us.</p> <p>22 Q. To your knowledge was he scheduled</p> <p>23 to work at all in August or September of 2005?</p> <p>24 A. I don't recall. I would have to</p> <p>25 look at a schedule from back then. 15:30:51</p>	<p>1 Hesse</p> <p>2 Q. How about Fiorillo, from the time</p> <p>3 that you became aware of the fact that you</p> <p>4 were going to become the Acting Chief did you</p> <p>5 schedule Fiorillo for any part-time shifts? 15:31:05</p> <p>6 A. I think he worked two tours</p> <p>7 because I was strapped for guys, I didn't have</p> <p>8 anybody available to work. But they might</p> <p>9 have been like either Christmas or Christmas</p> <p>10 Eve and New Years or New Year's Eve. But I 15:31:21</p> <p>11 don't think subsequent to that there was any.</p> <p>12 Q. Why didn't you schedule him?</p> <p>13 A. Because I really didn't prefer him</p> <p>14 to be on shift.</p> <p>15 Q. How about Nofi, same question? 15:31:30</p> <p>16 A. He may have worked one tour that</p> <p>17 entire winter. But, you know, I was inclined</p> <p>18 to give the tours to the guys that could work</p> <p>19 alone and seniority.</p> <p>20 Q. What do you mean that could work 15:31:48</p> <p>21 alone?</p> <p>22 A. At that time of year there is one</p> <p>23 cop on per shift.</p> <p>24 Q. What was your concern about Nofi</p> <p>25 working alone? 15:31:55</p>

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<p>1 Hesse</p> <p>2 MR. GOODSTADT: Objection.</p> <p>3 Q. What concerns did you have if any</p> <p>4 with regard to assigning Nofi a shift during</p> <p>5 the winter when he would be working alone? 15:32:03</p> <p>6 A. Well if something happened you got</p> <p>7 to know who to call, where to call, what radio</p> <p>8 to use, what channel. There is a lot of</p> <p>9 variables. So you know I really never thought</p> <p>10 that he was capable of being alone. 15:32:16</p> <p>11 Q. You said you rather give it to</p> <p>12 people with seniority?</p> <p>13 A. Seniority.</p> <p>14 Q. You mean seniority with Ocean</p> <p>15 Beach or seniority in terms of police force 15:32:25</p> <p>16 experience?</p> <p>17 A. Seniority with Ocean Beach.</p> <p>18 Q. So who did you give the majority</p> <p>19 of the shifts to between the time that you</p> <p>20 became or you learned that you were going to 15:32:34</p> <p>21 be Acting Chief and the beginning of the</p> <p>22 season; when I say shifts, I mean part-time</p> <p>23 shifts?</p> <p>24 A. That is funny, I would have to</p> <p>25 look at a schedule. But I was in the process, 15:32:49</p>	<p>1 Hesse</p> <p>2 but I may have hired Paul Trosko full-time.</p> <p>3 So he was working full-time. I was working</p> <p>4 full-time. I know Walter Muller was on the</p> <p>5 schedule. I am trying to think who else I 15:33:03</p> <p>6 had.</p> <p>7 You know, Carter could work by</p> <p>8 himself. Tommy Snyder was on by himself on</p> <p>9 the midnights. Specifically, you know, I</p> <p>10 don't recall right now anybody else, I would 15:33:24</p> <p>11 have to really look at a schedule.</p> <p>12 Q. As you can tell from the complaint</p> <p>13 there is a lot of allegations about the</p> <p>14 Bosetti's?</p> <p>15 A. Yes. 15:33:36</p> <p>16 Q. So I feel obligated to ask you</p> <p>17 about them. Describe for me your opinion of</p> <p>18 the Bosetti's -- of Gary Bosetti, let's start</p> <p>19 with him, as a police officer for Ocean Beach,</p> <p>20 independent of whatever he did for the city? 15:33:52</p> <p>21 A. Okay. Police officer for Ocean</p> <p>22 Beach, and I said this for a long time about</p> <p>23 Gary and Richie both, that when they came on</p> <p>24 that they changed, they started to help change</p> <p>25 the persona of the Police Department. Kinder, 15:34:09</p>
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<p>1 Hesse</p> <p>2 friendlier, approachable. They were easily</p> <p>3 approachable. Anybody can talk to them about</p> <p>4 any issue that they had, and they would relay</p> <p>5 that information on to either myself or Ed 15:34:23</p> <p>6 Paradiso.</p> <p>7 As far as their work, their</p> <p>8 performance, you know, they were not summons</p> <p>9 writers by any means. They wrote one, two,</p> <p>10 three when they actually had to. But there 15:34:39</p> <p>11 were times where because of them we solved a</p> <p>12 burglary or two or three because people would</p> <p>13 trust them and be able to come up to them and</p> <p>14 give them the information that the Police</p> <p>15 Department needed to make an arrest or, you 15:34:54</p> <p>16 know...</p> <p>17 Q. What is the basis for your opinion</p> <p>18 that the people of Ocean Beach trusted Gary</p> <p>19 and Richie Bosetti?</p> <p>20 A. Everybody would come up to me and 15:35:06</p> <p>21 say they are so nice, they are great officers.</p> <p>22 It is nice to have somebody that we can talk</p> <p>23 to if there is an issue. I mean the community</p> <p>24 just loved them.</p> <p>25 Q. Did people come up and tell you 15:35:18</p>	<p>1 Hesse</p> <p>2 how much they loved Kevin Lamm?</p> <p>3 A. No.</p> <p>4 Q. Did people come up to you and tell</p> <p>5 you how much they liked or loved Frank 15:35:27</p> <p>6 Fiorillo?</p> <p>7 A. No.</p> <p>8 Q. Joe Nofi?</p> <p>9 A. No.</p> <p>10 Q. Ed Carter? 15:35:33</p> <p>11 A. No.</p> <p>12 Q. Tom Snyder?</p> <p>13 A. No.</p> <p>14 Q. Correct me if I am wrong, none of</p> <p>15 the five plaintiffs here have ever been a 15:35:41</p> <p>16 full-time police officer?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. GOODSTADT: Objection.</p> <p>19 Q. Let me ask you. To your knowledge</p> <p>20 was Frank Fiorillo ever a full-time police 15:35:50</p> <p>21 officer for any jurisdiction other than Ocean</p> <p>22 Beach?</p> <p>23 A. No.</p> <p>24 Q. To your knowledge was Joe Nofi</p> <p>25 ever a full-time police officer for any 15:36:00</p>

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1 **Hesse**
2 **jurisdiction other than Ocean Beach?**
3 A. No.
4 **Q. And same question with regard to**
5 **Snyder? 15:36:08**
6 A. No.
7 **Q. Lamm?**
8 A. No.
9 **Q. Carter?**
10 A. No. 15:36:15
11 **Q. And they were not -- none of the**
12 **plaintiffs were full-time for Ocean Beach**
13 **either; correct?**
14 A. Correct.
15 **Q. They were just either part-time 15:36:21**
16 **when it was off season?**
17 A. Correct.
18 **Q. Or seasonal?**
19 A. Yes.
20 **Q. And how many hours did a typical 15:36:26**
21 **police officer work on a weekly basis during**
22 **the season?**
23 MR. GOODSTADT: Objection.
24 A. During the season?
25 **Q. Yes. 15:36:36**

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1 **Hesse**
2 A. No.
3 **Q. Same question about Richie?**
4 A. No.
5 **Q. Same question about -- was Ty 15:37:35**
6 **Bacon certified?**
7 A. He was. There was a mix up with
8 his paperwork.
9 **Q. Did you have any concern with**
10 **regard to any officer that was not certified 15:37:49**
11 **with regard to the public safety of Ocean**
12 **Beach?**
13 A. No.
14 **Q. Let's talk about Ty Bacon. What**
15 **type of police officer was he? 15:37:59**
16 A. A good man, an honorable man,
17 takes a lot of pride in his job. Good with
18 the community. Good with the public.
19 **Q. As between the Bosetti's and the**
20 **five plaintiffs, who had -- who would you say 15:38:14**
21 **was the better police officer?**
22 MR. GOODSTADT: Objection.
23 A. In my opinion the Bosetti brothers
24 were better police officers.
25 **Q. And were the Bosetti's the type of 15:38:27**

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1 **Hesse**
2 A. They could work one shift a week,
3 to 40 hours plus a week.
4 **Q. So it varied?**
5 A. It varied. 15:36:42
6 **Q. Depending on the schedules of the**
7 **particular officers?**
8 A. Correct.
9 **Q. Now to your knowledge how many**
10 **years experience did Gary Bosetti have? 15:37:00**
11 A. At the time he came to Ocean
12 Beach?
13 **Q. Yes.**
14 A. At least a minimum of 20.
15 **Q. Mr. Goodstadt asked you a lot of 15:37:08**
16 **questions about them not being certified by**
17 **Suffolk County.**
18 A. Correct.
19 **Q. Given their experience with the**
20 **New York City -- let's talk about Gary 15:37:19**
21 **Bosetti. Given Gary Bosetti's experience with**
22 **the New York City Police Department were you**
23 **ever concerned that the public safety was at**
24 **risk because they were not certified by**
25 **Suffolk County? 15:37:30**

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1 **Hesse**
2 **officers that you wanted to have in your**
3 **kinder and gentler Police Department?**
4 A. Yes.
5 **Q. How about Ty Bacon? 15:38:38**
6 A. Yes.
7 **Q. Let's go back to the Halloween**
8 **incident, I am just going through my notes**
9 **from this morning to see. Now Mr. Goodstadt**
10 **asked you some questions about your 15:39:00**
11 **communications with Frank Fiorillo, and**
12 **Fiorillo I think you indicated was angry when**
13 **you -- was angry when you gave him the results**
14 **of your investigation?**
15 A. No. 15:39:13
16 **Q. Who was that?**
17 A. Kevin Lamm.
18 **Q. Kevin Lamm was angry. Now was it**
19 **Kevin Lamm who said are we going to sweep this**
20 **under the rug as well? 15:39:22**
21 A. Yes.
22 **Q. Did Lamm ask, advise you as to**
23 **what he meant by as well with regard to**
24 **sweeping something under the rug?**
25 A. No. 15:39:32

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<p>1 Hesse</p> <p>2 Q. Are you aware of anything that you</p> <p>3 swept under the rug?</p> <p>4 A. No.</p> <p>5 MR. GOODSTADT: Objection. 15:39:36</p> <p>6 Q. To your knowledge did Lamm go to</p> <p>7 Chief Paradiso with his concerns that I guess</p> <p>8 the Halloween incident was being swept under</p> <p>9 the rug?</p> <p>10 A. I don't know. 15:39:51</p> <p>11 Q. Did Chief Paradiso ever advise you</p> <p>12 that he thought it was being swept under the</p> <p>13 rug?</p> <p>14 A. No. Never.</p> <p>15 Q. When did Lamm start working for 15:40:02</p> <p>16 Ocean Beach?</p> <p>17 A. Late 90s.</p> <p>18 Q. Now, Mr. Goodstadt asked you some</p> <p>19 questions about Gary Bosetti leaving the scene</p> <p>20 of Hauser's Bar at some point in time after 15:40:18</p> <p>21 the altercation. Do you recall those</p> <p>22 questions</p> <p>23 A. Yes.</p> <p>24 Q. And I believe you said that Richie</p> <p>25 Bosetti told you that his brother was dazed? 15:40:32</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. Now in your opinion, I think Mr.</p> <p>4 Goodstadt asked you this question, if he</p> <p>5 didn't he will object, do you find it strange 15:40:39</p> <p>6 that someone -- even an off duty police</p> <p>7 officer who was involved in a physical</p> <p>8 altercation when he was attacked by no less</p> <p>9 than two individuals and who was dazed and</p> <p>10 hurt, would have left the scene; do you find 15:40:53</p> <p>11 that strange?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. No, I don't find that strange, no.</p> <p>15 Q. Why don't you find that strange? 15:41:00</p> <p>16 A. I think he wanted to go lay down.</p> <p>17 I believe Richie had told me that he advised</p> <p>18 him to go and go lay down.</p> <p>19 Q. So if I understand you correctly,</p> <p>20 at least according to Richie, Richie told you 15:41:13</p> <p>21 that he told his brother to leave and go lay</p> <p>22 down?</p> <p>23 A. Correct.</p> <p>24 Q. Now, Mr. Goodstadt asked you some</p> <p>25 questions about whether or not you disciplined 15:41:46</p>
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<p>1 Hesse</p> <p>2 Gary Bosetti for leaving the scene or doing</p> <p>3 anything as it related to the Halloween</p> <p>4 incident when he was off duty, do you recall</p> <p>5 that? 15:42:03</p> <p>6 A. Yes.</p> <p>7 Q. Could you have disciplined Gary</p> <p>8 Bosetti for something that he did while he was</p> <p>9 off duty?</p> <p>10 A. Yes. 15:42:09</p> <p>11 Q. Is there a policy at Ocean Beach</p> <p>12 that talks about disciplining off duty police</p> <p>13 officers?</p> <p>14 MR. GOODSTADT: Objection.</p> <p>15 A. At that time? 15:42:18</p> <p>16 Q. Yes.</p> <p>17 A. I don't believe we had any</p> <p>18 policies.</p> <p>19 Q. Now Mr. Goodstadt asked you a</p> <p>20 number of questions about your opinion of the 15:42:32</p> <p>21 Lamm, Snyder, Fiorillo accounts of what went</p> <p>22 on, do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. And those accounts were based upon</p> <p>25 solely the accounts of the alleged victims; am 15:42:45</p>	<p>1 Hesse</p> <p>2 I correct?</p> <p>3 A. Correct.</p> <p>4 MR. GOODSTADT: Objection.</p> <p>5 Q. And you said you believed that the 15:42:54</p> <p>6 victims, the alleged victims' statements to</p> <p>7 the three officers that night were lies, do</p> <p>8 you recall that?</p> <p>9 A. Yes.</p> <p>10 Q. Did you initially believe that 15:43:02</p> <p>11 they were lies when you first read them?</p> <p>12 A. No.</p> <p>13 Q. At what point in time did you come</p> <p>14 to the conclusion that what Van Koot, Schalik</p> <p>15 and I think Tesori stated to Lamm, Snyder 15:43:13</p> <p>16 and/or Fiorillo that evening were lies?</p> <p>17 A. When I spoke to Budd Jaeger and</p> <p>18 Jean Jaeger.</p> <p>19 Q. And why did what Jean and/or Budd</p> <p>20 Jaeger say to you cause you to now believe 15:43:26</p> <p>21 that what Schalik, Tesori and Van Koot said</p> <p>22 were lies?</p> <p>23 A. Put a whole different perspective</p> <p>24 on what we believed happened.</p> <p>25 Q. What was the different 15:43:39</p>

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1 Hesse
2 perspective?
3 A. Instead of Gary Bosetti just going
4 berserk in a bar in a drunken rage hitting
5 people in the bar with a pool stick, there 15:43:49
6 were other elements leading up to Mr. Gary
7 Bosetti defending himself and a third person
8 with the pool stick.
9 Q. Was your opinion that the initial
10 three statements -- was it your opinion that 15:44:03
11 the accounts given by Tesori, Schalik and Van
12 Koot were lies, was that reinforced when you
13 received subsequent statements from other
14 witnesses?
15 A. Yes. 15:44:20
16 Q. I know I'm flipping back, so I
17 apologize. Let's go back to the April 2006
18 time period. You had various police officers,
19 you asked them to come to the beach?
20 A. Yes. 15:44:52
21 Q. You advised four of the plaintiffs
22 that they were not going to be rehired. The
23 rest presumably if I am correct were going to
24 be rehired; right?
25 A. Yes. 15:45:00

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1 Hesse
2 that she needed to approve which officers for
3 the 2006 season were going to be rehired?
4 A. No.
5 Q. Did Trustee Loeffler ever advise 15:46:06
6 you that he needed to approve of who you
7 rehired for the 2006 season?
8 A. No.
9 Q. Were you aware that you needed to
10 run the names by either Mayor Rogers or 15:46:18
11 Loeffler?
12 A. I was never told that I had to do
13 that.
14 Q. Or any trustee?
15 A. No. 15:46:24
16 Q. To your knowledge did Paradiso
17 when he made the decision have to run the
18 names of the people that were being hired for
19 the particular season by either the mayor or
20 the trustees? 15:46:36
21 A. I was unaware.
22 Q. Did Mayor Rogers ever advise you
23 that you acted improperly by not clearing the
24 seasonal police officer staff with her first?
25 A. No. 15:46:49

1 Hesse
2 Q. Other than Mr. Snyder?
3 A. Yes.
4 Q. Did you notify the village at any
5 point in time after April 2nd as to those 15:45:08
6 officers that were going to be hired for the
7 2006 season, or did they just show up when the
8 season started and say here I am?
9 A. There was no notification made
10 that they were going to be rehired. They 15:45:23
11 basically got scheduled and started to work.
12 Q. How did the village know to pay
13 them?
14 A. I believe that twice, there is two
15 times a year that Civil Service sends out a 15:45:32
16 form that needs to be filled out by the
17 village that states which officers will be
18 working, and it gets verified by me, sent back
19 to the village office and sent on.
20 Q. So at some point in time there is 15:45:45
21 a communication between you and the Village
22 Clerk's office as to which officers were being
23 hired for the 2006 season?
24 A. Yes.
25 Q. Did Mayor Rogers ever advise you 15:45:57

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1 Hesse
2 Q. How about any trustee?
3 A. No.
4 Q. Now, you discussed with Mr.
5 Goodstadt on the first day of your testimony 15:47:58
6 with regard to certain comments that Mayor
7 Rogers said with regard to Mr. Paradiso. Do
8 you recall being asked certain of those
9 questions?
10 A. Vaguely. 15:48:11
11 Q. Do you recall being advised that
12 Ms. Rogers believed that there was some
13 liabilities with regard to Chief Paradiso?
14 A. Vaguely.
15 Q. What did you mean by liabilities; 15:48:21
16 you would have to know what the question was?
17 A. Yes, I would need to hear it.
18 Q. Okay.
19 Well let me be more specific. I
20 believe you testified and correct me if I am 15:48:34
21 wrong that Mayor Rogers expressed some
22 disappointment with the chief when you spoke
23 to her concerning the notice of claim?
24 MR. GOODSTADT: Objection.
25 Q. Did you ever speak to Mayor Rogers 15:48:45

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1 Hesse
2 about the notice of claim?
3 A. Yes.
4 Q. And in that conversation did you
5 have -- did you discuss Chief Paradiso? 15:48:53
6 A. Yes.
7 Q. What did Mayor Rogers say to you
8 concerning Chief Paradiso at that time?
9 A. I just remember her being unhappy
10 with the way he ran things. 15:49:04
11 Q. Do you recall specifically what
12 Mayor Rogers said?
13 A. Off the top of my head right now,
14 no.
15 Q. Radio codes, again Mr. Goodstadt 15:49:12
16 asked you and you rolled your eyes, Mr.
17 Goodstadt asked you some questions about radio
18 codes?
19 A. Yes.
20 Q. Did Mr. Nofi ever advise you that 15:49:42
21 he had issued a 10-1 and that any police
22 officer failed to respond to the 10-1?
23 A. He never complained, no.
24 Q. Did he ever say anything to you,
25 even if it was not a complaint, that he had 15:49:58

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1 Hesse
2 Beach while in uniform to go into a private
3 residence, sit down and drink a beer?
4 A. Would it be inappropriate?
5 Q. Yes. 15:51:22
6 A. In my opinion yes.
7 Q. While they were on duty in
8 uniform?
9 A. Absolutely, yes.
10 Q. How about if they went into a 15:51:28
11 resident's house, had a woman sit on his lap,
12 drink a beer and have a picture taken?
13 A. It is inappropriate.
14 MR. GOODSTADT: I think we are --
15 you have no foundation that they even 15:51:49
16 drank a beer. No foundation.
17 MR. NOVIKOFF: Okay. You could
18 have objected to form.
19 MR. GOODSTADT: You are asking
20 hypotheticals. 15:51:59
21 MR. NOVIKOFF: That is true.
22 MR. GOODSTADT: If you mentioned
23 one of my clients then maybe I would have
24 said objection. But you are speaking
25 hypothetically. 15:52:07

1 Hesse
2 issued a 10-1 and no one came to assist him?
3 A. No.
4 Q. Did you ever hear a rumor prior to
5 seeing this lawsuit that Joe Nofi had issued a 15:50:07
6 10-1 and no one came to help him?
7 A. No.
8 Q. Did you ever receive a
9 communication, I am not even talking about a
10 complaint now, did you ever receive a 15:50:25
11 communication from any police officer that
12 another police officer didn't know a radio
13 code?
14 MR. GOODSTADT: Objection.
15 A. No. 15:50:38
16 Q. Did you ever receive a
17 communication from any resident of Ocean Beach
18 that the police didn't respond to something
19 involving that particular resident because a
20 particular officer did not know the right 15:50:54
21 radio code?
22 MR. GOODSTADT: Objection.
23 A. No.
24 Q. Let me ask you something. Was it
25 appropriate for a police officer at Ocean 15:51:07

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1 Hesse
2 MR. NOVIKOFF: Well it is what it
3 is.
4 Q. In response to I think Mr.
5 Goodstadt's question again on the radio codes, 15:52:22
6 I think you said that the officers always
7 spoke the codes as well as plain talk, do you
8 recall that?
9 A. Yes.
10 Q. What does plain talk mean? 15:52:33
11 A. Basically what we are doing now.
12 Just talking to each other. Just give him the
13 type of call it was, you know, for what it
14 was.
15 Q. Give me an example? 15:52:42
16 A. Like we get a complaint of noise
17 somewhere. So the dispatcher would pick up
18 the radio, he would assign it to an officer.
19 The officer would respond and he would say, we
20 have a 10-17, noise complaint at 668 Ocean 15:52:53
21 Breeze.
22 Q. Okay. Flipping back a little bit,
23 sorry, I don't think I asked you this
24 question.
25 Did Lamm or any other officer ever 15:53:04

1 Hesse
2 advise you that people dumped beer near them
3 when they were walking on the beach?
4 A. We had an incident.
5 Q. What is that incident? 15:53:18
6 A. We had an incident that Kevin Lamm
7 and Tommy Snyder were standing on a foot post
8 and Ocean Breeze and Bay Walk, and some punk
9 took a beer, poured it down the ledge of the
10 building and it dripped on to Tom Snyder. 15:53:35
11 Q. Now there is an allegation in the
12 complaint about beer being thrown from a
13 second or third floor story near Mr. Lamm. Do
14 you recall seeing that?
15 A. The complaint? 15:53:50
16 Q. Yes.
17 A. Yes.
18 Q. To your understanding is that the
19 incident that you are discussing?
20 A. That is the only one that I know 15:53:57
21 of.
22 Q. Was the allegations in the
23 complaint about that incident accurate?
24 MR. GOODSTADT: Objection.
25 A. It was exaggerated. 15:54:06

1 Tuesday, and counsel will discuss the
2 briefing schedule either tomorrow or
3 early next week.
4 MR. GOODSTADT: No objection. 16:03:53
5 MR. CONNOLLY: With the request
6 being that if he pushed back one week
7 subject to court consent.
8 MR. NOVIKOFF: Okay.
9 THE VIDEOGRAPHER: The time is 16:04:03
10 4:05. We are off the record.
11 (Time noted: 4:05 p.m.)
12
13 _____
14 GEORGE HESSE
15
16 Subscribed and sworn to before me
17 this ____ day of _____, 2009
18
19 _____
20
21
22
23
24
25

1 Hesse
2 Q. How was it exaggerated?
3 A. I need you to read it to me so I
4 can --
5 Q. Let me go find it. You know what, 15:54:15
6 let me mark the following complaint because I
7 just want to make sure that we covered the
8 allegations. I apologize, I tried to do it a
9 little expeditiously and I don't want to mess
10 it up. 15:54:59
11 MR. CONNOLLY: While this is being
12 marked let's go off the record.
13 THE VIDEOGRAPHER: The time is
14 3:56, we are off the record.
15 (Recess taken.) 15:55:08
16 THE VIDEOGRAPHER: The time is
17 4:05, we are on the record.
18 MR. NOVIKOFF: We are going to
19 stop the deposition today after all
20 counsel have had a discussion off the 16:03:28
21 record. We are going to continue with
22 the deposition of Mr. Hesse and hopefully
23 complete it on August 17th.
24 We are confirmed for Mr. Carollo
25 at this office here at 2 o'clock next 16:03:43

1
2 CERTIFICATE
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF NEW YORK)
6
7 I, Philip Rizzuti, a Notary
8 Public within and for the State of New
9 York, do hereby certify:
10 That GEORGE HESSE, the witness
11 whose deposition is hereinbefore set forth,
12 was duly sworn by me and that such
13 deposition is a true record of the
14 testimony given by the witness.
15 I further certify that I am not
16 related to any of the parties to this
17 action by blood or marriage, and that I am
18 in no way interested in the outcome of this
19 matter.
20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 18th day of
22 August, 2009.
23
24 _____
25 PHILIP RIZZUTI

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<p>1</p> <p>2 ----- I N D E X -----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 GEORGE HESSE Mr. Goodstadt 491</p> <p>5 Mr. Novikoff 679</p> <p>6</p> <p>7 ----- INFORMATION REQUESTS -----</p> <p>8 DIRECTIONS: None</p> <p>9 RULINGS: None</p> <p>10 TO BE FURNISHED: None</p> <p>11 REQUESTS: 619, 638</p> <p>12 MOTIONS: None</p> <p>13</p> <p>14 ----- EXHIBITS -----</p> <p>15 Hesse Exhibit 17, photocopy of 524</p> <p>16 photographs,</p> <p>17 Hesse Exhibit 18, incident 529</p> <p>18 report,</p> <p>19 Hesse Exhibit 19, handwritten 543</p> <p>20 statement, November 1, 2004,</p> <p>21 Hesse Exhibit 20, handwritten 554</p> <p>22 statement, November 2, 2004,</p> <p>23 Hesse Exhibit 21, internal 562</p> <p>24 correspondence, November 12,</p> <p>25 2004,</p>	<p>1</p> <p>2 Hesse Exhibit 22, internal 569</p> <p>3 correspondence, December 10,</p> <p>4 2004,</p> <p>5 Hesse Exhibit 23, typewritten 577</p> <p>6 document dated 11/5/04 to George</p> <p>7 Hesse,</p> <p>8 Hesse Exhibit 24, internal 588</p> <p>9 correspondence, November 7,</p> <p>10 2004,</p> <p>11 Hesse Exhibit 25, Ocean Beach 599</p> <p>12 Police Department, document</p> <p>13 dated 11/5/2004,</p> <p>14 Hesse Exhibit 26, incident 604</p> <p>15 report, 12/11/2004,</p> <p>16 Hesse Exhibit 27, letter dated 612</p> <p>17 March 11, 2006,</p> <p>18 Hesse Exhibit 28, Employment, 664</p> <p>19 Collier County Sheriff's Office,</p> <p>20 Employment Reference Prior</p> <p>21 Experience,</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1</p> <p>2 *** ERRATA SHEET ***</p> <p>3 NAME OF CASE: CARTER VS. OCEAN BEACH</p> <p>4 DATE OF DEPOSITION: August 6, 2009</p> <p>5 NAME OF WITNESS: GEORGE HESSE</p> <p>6 PAGE LINE FROM TO</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 GEORGE HESSE</p> <p>23 Subscribed and sworn to before me</p> <p>24 this ____ day of _____, 2009.</p> <p>25 _____</p> <p>(Notary Public) My Commission Expires:</p>	

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